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18. Milwaukee Railroad Restructuring [New]..... 901

CHAPTER I—SAFETY APPLIANCES AND EQUIPMENT ON RAILROAD ENGINES AND CARS, AND PROTECTION OF EMPLOYEES AND TRAVELERS

§ 6. Failure to equip cars as provided; duty of United States attorneys and Secretary of Transportation; exceptions from operation of provisions

Any common carrier engaged in interstate commerce by railroad using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of sections 1 to 7 of this title, shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be assessed by the Secretary of Transportation and recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Secretary of Transportation to lodge with the proper United States attorneys information of any such violations as may come to his knowledge: *Provided,* That nothing in sections 1 to 7 of this title shall apply to trains composed of four-wheel cars or to trains composed of eight-wheel standard logging cars where the height of such car from top of rail to center of coupling does not exceed twenty-five inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs.

(As amended Nov. 2, 1978, Pub. L. 95-574, § 7(a), 92 Stat. 2461.)

AMENDMENTS

1978—Pub. L. 95-574 provided that penalties under this section be assessed by the Secretary of Transportation.

§ 13. Penalty for using car not equipped as provided; hauling car for repairs where equipment becomes defective; liability for death or injury of employee; use of chains instead of drawbars

Any common carrier subject to sections 11 to 16 of this title using, hauling, or permitting to be used or hauled on its line, any car subject to the requirements of said sections not equipped as provided in said sections, shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be assessed by the Secretary of Transportation and recovered as provided in section 6 of this title: *Provided,* That where any car shall have been properly equipped, as provided in sections 1 to 16 of this title, and such equipment shall have become defective or insecure while such car was being used by such carrier upon its line of railroad, such car may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such car can be repaired, without liability for the penalties imposed by this section or section 6 of this title, if such movement is necessary to make such repairs and such repairs cannot be made except at such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier, and nothing in this section shall be construed to relieve such carrier from liability in any remedial action for the death or injury of any railroad employee caused to such employee by reason of or in connection with the movement or hauling of such car with equipment which is defective or insecure or which is not maintained in accordance with the requirements of sections 1 to 16 of this title; and nothing in this proviso shall be construed to permit the hauling of defective cars by means of chains instead of drawbars, in revenue trains or in association with other cars that are commercially used, unless such defective cars contain livestock or "perishable" freight.

(As amended Nov. 2, 1978, Pub. L. 95-574, § 7(b), 92 Stat. 2461.)

AMENDMENTS

1978—Pub. L. 95-574 provided that penalties under this section be assessed by the Secretary of Transportation.

§ 22. Inspection of locomotives and appurtenances; definitions

CODIFICATION

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 34. Penalty for violations by carrier; duty of United States attorney to sue therefor; director to give information

Any common carrier violating the provisions of sections 22 to 29 and 31 to 34 of this title relating to locomotives, their boilers, tenders, and so forth, or any rule or regulation made under such provisions or any lawful order of any inspector shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be assessed by the Secretary of Transportation and recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such attorneys, subject to the direction of the Attorney General, to bring such suits upon duly verified information being lodged with them, respectively, of such violations having occurred; and it shall be the duty of the director of locomotive inspection to give information to the proper United States attorney of all violations coming to his knowledge.

(As amended Nov. 2, 1978, Pub. L. 95-574, § 7(c), 92 Stat. 2461.)

AMENDMENTS

1978—Pub. L. 95-574 provided that penalties under this section be assessed by the Secretary of Transportation.

CHAPTER 3—HOURS OF SERVICE OF EMPLOYEES

§ 61. Carriers subject to provisions of this chapter; definitions; time on duty

(a) This chapter shall apply to any common carrier engaged in interstate or foreign commerce by railroad.

(b) For the purposes of this chapter—

[*See main edition for text of (1) to (3)*]

(4) The term "designated terminal" means the home terminal and the away from home terminal for the assignment of a particular crew. Time on duty shall not include interim rest periods of four or more hours between designated terminals where the employee is prevented from reaching his or her designated terminal by act of God, track obstruction, casualty, derailment or major disabling equipment failure, which derailment or disabling equipment failure was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time such employee left the designated terminal, and which could not have been foreseen, and only then at a place where suitable facilities for food and lodging are available.

(As amended Nov. 2, 1978, Pub. L. 95-574, §§ 5, 6, 92 Stat. 2461.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-574, § 5, deleted description of interstate and foreign commerce and provision applying this chapter to officers, agents, and employees of common carriers.

Subsec. (b)(4). Pub. L. 95-574, § 6, added par. (4).

§ 63a. Signal system employees' hours of service

(a) Limitations

It shall be unlawful for any common carrier, its officers or agents, subject to this chapter—

[*See main edition for text of (1) and (2)*]

Whenever the time on duty of an individual is broken or interrupted by any period of time off duty of less than eight consecutive hours, such individual may be on duty for not more than twelve hours during a twenty-four-hour period, if such individual has had at least eight consecutive hours off duty immediately before reporting for duty, or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty immediately before so reporting. After an individual has been on duty for a total of twelve hours during a period of twenty-four hours as permitted by the foregoing sentence, or at the end of such twenty-four-hour period, whichever occurs first, such individual shall not be required or permitted to continue on duty or to go on duty until he has had at least eight consecutive hours off duty. For purposes of this subsection, a twenty-four-hour period shall begin when an individual reports for duty immediately after he has had at least eight consecutive hours off duty or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty.

[*See main edition for text of (b)*]

(c) Time on duty

For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when an individual is finally released from duty, except that—

(1) time spent in travel on return from a trouble call, whether directly to the individual's residence or by way of the individual's headquarters, shall be considered neither time on duty nor time off duty, except that up to sixty minutes of such time on return from the final trouble call of a period of continuous or broken service shall be considered time off duty;

(2) if, at the expiration of scheduled duty hours, an individual has not completed the trip from the final outlying worksite of the duty period to the individual's headquarters or from the final outlying worksite directly to the individual's residence, then the time spent in travel outside the scheduled duty hours which is required to complete the trip to such headquarters or directly to such residence, as the case may be, shall be considered neither time on duty nor time off duty;

(3) if an individual is released from duty at an outlying worksite prior to the end of such individual's scheduled duty hours in order to comply with this section, the period of time required for the trip from the outlying worksite to the individual's headquarters, or the period of time required for the trip from the outlying worksite direct to the individual's residence, as the case may be, shall be considered neither time on duty nor time off duty;

(4) all time spent in transportation on an ontrack vehicle, including time referred to in

paragraphs (1), (2), and (3) of this subsection, shall be considered time on duty; and

(5)(A) regularly scheduled meal periods and other release periods of thirty minutes or more up to sixty minutes shall be considered time off duty but shall not break an individual's continuity of service for purposes of this section, and (B) release periods of more than one hour shall be considered time off duty and shall break an individual's continuity of service for purposes of this section.

[*See main edition for text of (d) to (f)*]

(As amended Nov. 2, 1978, Pub. L. 95–574, § 4(a), (b), 92 Stat. 2459, 2460.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–574, § 4(a), added provision relating to twelve hour on duty maximum in any twenty-four hour duty period.

Subsec. (c). Pub. L. 95–574, § 4(b), added pars. (1) to (5).

EFFECTIVE DATE OF 1978 AMENDMENT; LIMITATION OF APPLICATION

Section 4(c) of Pub. L. 95–574 provided that: "The amendments made by this section [amending this section] shall be effective as of July 8, 1976, except that no action or conduct which occurred during the period beginning on such date and ending on the date of enactment of this Act [Nov. 2, 1978] and which was lawful under the Hours of Service Act [this chapter] as in effect on July 8, 1976, shall be deemed to be unlawful under such Act as amended by this Act [Pub. L. 95–574]."

§ 65. Establishment of eight hour day

REFERENCES IN TEXT

The Act of February 4, 1887, entitled "An Act to regulate commerce," referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 13, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

CHAPTER 5—GOVERNMENT-AIDED RAILROADS

§ 81. Union Pacific Railroad

The books, records, correspondence, and all other documents of the Union Pacific Railroad Company, shall at all times be open to inspection by the Secretary of the Treasury, or such persons as he may delegate for that purpose. No dividend shall be made by said company but from the actual net earnings thereof; and no new stock shall be issued or mortgages or pledges made on the property or future earnings of the company without leave of Congress, except for the purpose of funding and securing debt now existing, or the renewals thereof. No director or officer of said road shall be interested, directly or indirectly, in any contract therewith except for his lawful compensation as such officer. Any director or officer who shall pay or declare, or aid in paying or declaring, any dividend, or creating any mortgage or pledge prohibited by this section, shall be punished by imprisonment not exceeding two years, and by fine not exceeding $5,000.

(As amended Nov. 6, 1978, Pub. L. 95–598, title III, § 322(g), 92 Stat. 2679.)

AMENDMENTS

1978—Pub. L. 95–598 struck out sentence providing that the laws of the United States relating to bankruptcy proceedings were not to be applicable to the Union Pacific.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 8—RAILWAY LABOR

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 231, 351, 354, 355, 362, 401, 404, 431, 522, 565, 726, 771, 772, 774, 851, 853 of this title; title 11 section 1167; title 18 section 1951; title 26 section 3231; title 29 sections 152, 182, 302, 401, 402, 523, 630, 1002; title 42 section 2000e; title 49 sections 1382, 10722.

SUBCHAPTER I—GENERAL PROVISIONS

§ 151. Definitions; short title

CODIFICATION

The Interstate Commerce Act, referred to in par. first, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 156. Procedure in changing rates of pay, rules, and working conditions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 157 of this title; title 11 section 1167.

§ 157. Arbitration

CODIFICATION

The Interstate Commerce Act, as amended, referred to in subdiv. Third (f), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SUBCHAPTER II—CARRIERS BY AIR

§ 181. Application of subchapter I to carriers by air

All of the provisions of subchapter I of this chapter except section 153 of this title are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority

to supervise and direct the manner of rendition of his service.

(May 20, 1926, ch. 347, § 201, as added Apr. 10, 1936, ch. 166, 49 Stat. 1189.)

CODIFICATION

Section is set out in this supplement to correct a typographical error in the main edition.

CHAPTER 9—RETIREMENT OF RAILROAD EMPLOYEES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 405, 415.

SUBCHAPTER IV—RAILROAD RETIREMENT ACT OF 1974

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 354, 361, 362, 772, 775, 909 of this title; title 26 sections 3231, 6103, 6334; title 42 sections 405, 426-1, 1395i-1, 1395s, 1395v, 1395gg, 1395kk.

§ 231. Definitions

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (a)(1)(i), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Act, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49. Title I is now covered by subchapter I (§ 10501 et seq.) of chapter 105 of Title 49.

§ 231a. Annuity eligibility requirements

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 231b. Computation of annuities

[*See main edition for text of* (a) *to* (e)]

(f) Reductions in annuities

(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act [42 U.S.C. 301 et seq.], and disregarding any increases in such total amount which become effective after the date on which such begins to accrue, exceed an amount equal to the sum of individual's annuity under section 231a(a)(1) of this title (A) 100 per centum of his "final average monthly compensation" up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of title 26) for the calendar year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue, plus (B) 80 per centum of so much of his "final average monthly compensation" as exceeds 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of title 26) for the calendar year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c), and (d) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the "final average monthly compensation" of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue by 24. For purposes of this subdivision, the term "compensation" shall include "compensation" as defined in section 231(h) of this title, "wages" as defined in section 209 of the Social Security Act [42 U.S.C. 409], "self-employment income" as defined in section 211(b) of the Social Security Act [42 U.S.C. 411(b)], and wages deemed to have been paid under section 217 or 229 of the Social Security Act [42 U.S.C. 417, 429] on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977.

[*See main edition for text of* (2) *and* (3); (g) *to* (m)]

(As amended Dec. 20, 1977, Pub. L. 95-216, title III, § 358(a), 91 Stat. 1556.)

AMENDMENTS

1977—Subsec. (f)(1). Pub. L. 95-216 substituted "Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977" for "Wages and self-employment income included as compensation for purposes of this subdivision shall, in the

absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 358(b) of Pub. L. 95-216 provided that: "The amendments made by this section [amending subsec. (f)(1) of this section] shall be effective January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 231, 231a, 231c, 231e, 231f, 231n, 231r of this title; title 42 sections 405, 410, 430.

§ 231f. Railroad Retirement Board

[See main edition for text of (a)]

(b) Powers and duties

[See main edition for text of (1) to (6)]

(7) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare shall furnish the Board certified reports of wages, self-employment income, and periods of service and of other records in his possession, or which he may secure, pertinent to the administration of this subchapter and the Milwaukee Railroad Restructuring Act [45 U.S.C. 901 et seq.]. The Board shall furnish the Secretary of Health, Education, and Welfare certified reports of records of compensation and periods of service reported to it pursuant to section 231h of this title, of determinations under section 231a of this title, and of other records in its possession, or which it may secure, pertinent to subsection (c) of this section or to the administration of the Social Security Act [42 U.S.C. 301 et seq.] as affected by section 231q of this title. Such certified reports shall be conclusive in adjudication as to the matters covered therein: *Provided, however,* That if the Board or the Secretary of Health, Education, and Welfare receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health, Education, and Welfare, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

[See main edition for text of (8) and (9); (c) to (e)]

(As amended Nov. 4, 1979, Pub. L. 96-101, § 10(h), 93 Stat. 742.)

REFERENCES IN TEXT

The Milwaukee Railroad Restructuring Act, referred to in subsec. (b)(7), is Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 736, which is classified principally to chapter 18 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

Section 5108(c)(9) of title 5, referred to in subsec. (b)(9), was repealed by Pub. L. 95-454, § 414(a)(1)(A), Oct. 13, 1978, 92 Stat. 1177.

AMENDMENTS

1979—Subsec. (b)(7). Pub. L. 96-101 substituted "Notwithstanding any other provision of law, the Secretary" for "The Secretary" and inserted "and the Milwaukee Railroad Restructuring Act" following "administration of this subchapter".

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 231m. Assignability; exemption from levy

CROSS REFERENCES

Enforcement of legal obligations to provide child support or make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

§ 231r. Automatic benefit eligibility requirement adjustments

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

CHAPTER 11—RAILROAD UNEMPLOYMENT INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 231f, 231g, 231i, 355a, 363a, 366a, 367, 401, 404, 772, 779, 909 of this title; title 19 section 2319; title 26 section 6334.

§ 351. Definitions

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Act, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49. Title I is now covered by subchapter I (§ 10501 et seq.) of chapter 105 of Title 49.

§ 352. Benefits

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351, 360, 362 of this title; title 26 section 128.

§ 358. Contributions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 360, 404 of this title; title 26 section 51.

§ 361. Railroad unemployment insurance administration fund

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 362. Duties and powers of Board

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 231f, 351, 360, 361, 363, 918 of this title.

CHAPTER 13—RAILROAD SAFETY

SUBCHAPTER II—RULES, REGULATIONS, ORDERS, AND STANDARDS

Sec.
442. Limitations on funding [New].

SUBCHAPTER I—GENERAL PROVISIONS

§ 421. Congressional declaration of purpose

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-574, § 1, Nov. 2, 1978, 92 Stat. 2459, provided that: "This Act [enacting section 442 of this title, amending sections 6, 13, 34, 61, 63a, 436, 437, and 441 of this title and section 26 of Title 49, Transportation, and enacting provisions set out as notes under sections 63a and 440 of this title] may be cited as the 'Federal Railroad Safety Authorization Act of 1978'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 11125.

SUBCHAPTER II—RULES, REGULATIONS, ORDERS, AND STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 442 of this title; title 49 section 1.

§ 435. Investigative and surveillance activities by State

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 436, 440, 441 of this title.

§ 436. Enforcement of rule, regulation, order, or standard by State agency engaged in investigative and surveillance activities; preconditions; jurisdiction and power of court; exceptions

In any case in which the Secretary has failed to assess the civil penalty applicable under section 438 of this title, or no civil action has been commenced to obtain injunctive relief under section 439 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this subchapter, within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 435 of this title, that State agency may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard. The court shall have jurisdiction to enforce compliance with such rule, regulation, order, or standard by injunction or other proper process to restrain further violation thereof, or to enjoin compliance therewith, or to assess and collect the civil penalty included in or made applicable to such rule, regulation, order, or standard. The provisions of this section shall not apply in any case in which the Secretary has affirmatively determined, in writing, that no violation has occurred.

(As amended Pub. L. 95-574, § 8, Nov. 2, 1978, 92 Stat. 2461.)

AMENDMENTS

1978—Pub. L. 95-574 changed the date for application to district court for enforcement order from 90 days from occurance of a violation to 90 days from date notification of such violation is received by the Secretary.

§ 437. General powers

[*See main edition for text of* (a)].

(b) Inspection and examination of rail facilities and records by officers, employees, or agents of Secretary; credentials; status as Federal employees

To carry out the Secretary's responsibilities under this subchapter, officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested, and during the course of such inspection or examination shall be considered employees of the Federal Government for purposes of chapter 171 of title 28.

(c) Force and effect of orders, rules, regulations, standards, and requirements for purposes of determining liability of common carriers by railroad for injuries to employees

All orders, rules, regulations, standards, and requirements in force, or prescribed or issued by the Secretary under this subchapter, or by any State agency which is participating in investigative and surveillance activities pursuant to section 435 of this title, shall have the same force and effect as a statute for purposes of the application of sections 53 and 54 of this title, relating to the liability of common carriers by railroad for injuries to their employees.

(d) Redesignated (c)

(As amended Pub. L. 95-574, § 9, Nov. 2, 1978, 92 Stat. 2462.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-574, § 9(1), (2), redesignated former subsec. (c) as (b) and, as so redesignated, deleted references to National Transportation Safety Board and added provision that during the inspection the officers shall be considered employees of the Federal Government for purposes of chapter 171 of Title 28. Former subsec. (b), relating to authority of the National Transportation Safety Board, was struck out.

Subsecs. (c), (d). Pub. L. 95-574, § 9(1), redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

§ 440. Annual report by Secretary

RAIL TRANSPORTATION SAFETY AND EFFICIENCY STUDY

Pub. L. 95-574, § 10, Nov. 2, 1978, 92 Stat. 2462, provides that:

"(a) The Secretary of Transportation shall conduct a study and evaluation concerning the safety and efficiency of rail transportation. Such study and evaluation shall include—

"(1) a determination of the relationship of the size, weight, and length of railroad cars (other than those contained in unit trains) to the safety and efficiency of rail transportation; and

"(2) a determination of the effect of the exclusive ownership and control of rights-of-way by individual railroads on the safety and efficiency of rail transportation, considering among other things, whether or not such rights-of-way might be better employed under new structures of ownership or other conditions for joint usage.

"(b) Within one year after the date of enactment of this Act [Nov. 2, 1978], the Secretary of Transportation shall complete the portion of the study described in subsection (a)(1) of this section.

"(c) Within two years after the date of enactment of this Act [Nov. 2, 1978], the Secretary of Transportation shall complete the portion of the study described in subsection (a)(2) of this section and submit a report to the Congress setting forth the results of such study, together with recommendations for such legislative or other action as the Secretary deems appropriate."

§ 441. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $37,725,000 for the fiscal year ending September 30, 1979, and not to exceed $37,725,000 for the fiscal year ending September 30, 1980.

(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

(1) For the Office of Safety, including salaries and expenses for not more than (A) 600 safety inspectors, (B) 45 signal and train control inspectors, and (C) 125 clerical personnel, not to exceed $20,725,000. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

(2) To carry out the provisions of section 435(d) of this title, relating to State safety programs, not to exceed $3,500,000.

(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

(4) For conducting safety research and development activities under this chapter, not to exceed $10,000,000. Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.

(c) **Repealed. Pub. L. 95-574, § 2, Nov. 2, 1978, 92 Stat. 2459**

(As amended Pub. L. 95-574, § 2, Nov. 2, 1978, 92 Stat. 2459.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(4), was in the original "this Act", meaning Pub. L. 91-458, Oct. 16, 1970, 84 Stat. 971, which enacted this chapter and chapter 26 (§ 1761 et seq.) of Title 49, Transportation. Chapter 26 of Title 49 was repealed by section 113(g) of Pub. L. 93-633, title I, Jan. 3, 1975, 88 Stat. 2163. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-574 substituted "$37,725,000" for "$35,000,000" in two places, "September 30, 1979" for "September 30, 1977", and "September 30, 1980" for "September 30, 1978".

Subsec. (b)(1). Pub. L. 95-574 authorized an additional 100 safety inspectors in cl. (A), 15 additional clerks in cl. (C), increased the salary and expenses authorization to $20,725,000 from $18,000,000 and provided that such funds be available for travel expenses of safety inspectors for not less than 20 days per month.

Subsec. (b)(4). Pub. L. 95-574 substituted provision that funds appropriated under this section for research and development, automated track inspection, and safety grant programs remain available until expended for provision authorizing up to $10,000,000 in any fiscal year for research and development under this chapter.

Subsec. (c). Pub. L. 95-574 struck out former subsec. (c) limiting the aggregate amounts available for research and development under this chapter.

§ 442. Limitations on funding

Not less than 50 percent of the funds appropriated to the Secretary of Transportation for any fiscal year to conduct railroad research and development programs under the Federal Railroad Safety Act of 1970 [45 U.S.C. 431 et seq.] or any other Act shall be available for safety research, improved track inspection and data acquisition technology, improved rail freight service, and improved rail passenger systems.

(Pub. L. 95-574, § 3, Nov. 2, 1978, 92 Stat. 2459.)

REFERENCES IN TEXT

The Federal Railroad Safety Act of 1970, referred to in text, is Pub. L. 91-458, title II, Oct. 16, 1970, 84 Stat. 971, as amended, which is classified generally to this subchapter (§ 431 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

CODIFICATION

Section was enacted as part of the Federal Railroad Safety Authorization Act of 1978, and not as a part of the Federal Railroad Safety Act of 1970 which comprises this subchapter.

CHAPTER 14—RAIL PASSENGER SERVICE

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
501a. Goals [New].

SUBCHAPTER III—NATIONAL RAILROAD PASSENGER CORPORATION

545a. Mail service [New].
546a. Jurisdiction of Interstate Commerce Commission over rate, fare, charge, or marketing practice [New].

SUBCHAPTER IV—PROVISION OF RAIL PASSENGER SERVICES

566. Retention and maintenance of facilities [New].
(a) Necessity of approval by Secretary for downgrading or disposal of facilities.
(b) Notification; agreement of Corporation and railroad; applications for approval by Secretary.
(c) Approval of applications; objections to approval; payment of avoidable costs.

Sec.

(d) Avoidable costs-agreement considerations; analysis of facilities; survey plans.

(e) Definitions; obligations unaffected by downgrading or disposal of facilities.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

646. Rail Safety System Program [New].

647. Employee Compensation and Incentive Commission [New].

(a) Membership; qualification.

(b) Functions.

(c) Recommendations to Board of Directors; notice to Congress.

648. Model Job Placement Program [New].

649. State taxation study [New].

650. Revenue report [New].

SUBCHAPTER I—GENERAL PROVISIONS

§ 501. Congressional findings and declaration of purpose

(a) The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service to provide fast and comfortable transportation between crowded urban areas and in other areas of the country; that rail passenger service can help to end the congestion on our highways and the overcrowding of airways and airports; that the traveler in America should to the maximum extent feasible have freedom to choose the mode of travel most convenient to his needs; that to achieve these goals requires the designation of a basic national rail passenger system and the establishment of a rail passenger corporation for the purpose of providing modern, efficient, intercity rail passenger service; that Federal financial assistance as well as investment capital from the private sector of the economy is needed for this purpose; that interim emergency Federal financial assistance to certain railroads may be necessary to permit the orderly transfer of railroad passenger service to a railroad passenger corporation; and that rail passenger service offers significant benefits in public transportation for the safe movement of passengers with minimum energy expenditure and represents a significant national transportation asset in time of national emergency or energy shortage.

(b) The Congress further finds that—

(1) inadequately defined goals for the Corporation have denied its board of directors an effective role in guiding the Corporation or in promoting and increasing the number of intercity rail passengers;

(2) uncertain goals and financial commitment have discouraged the development of effective corporate management;

(3) uncertainty arising from the lack of specific goals has made the achievement of high employee morale difficult;

(4) State participation in subsidizing interstate rail passenger service has, for the most part, been unworkable;

(5) lack of full cooperation by the railroad industry has impeded effective systemwide operation of passenger trains by the Corporation; and

(6) a greater degree of cooperation is necessary among railroads, the Corporation, States with subsidized service, labor organizations, and suppliers of services and equipment to the Corporation in order to achieve a level of performance sufficient to justify additional expenditure of public funds.

(As amended Pub. L. 96–73, title I, § 102, Sept. 29, 1979, 93 Stat. 537.)

Amendments

1979—Pub. L. 96–73 designated existing provision as subsec. (a), and in subsec. (a) as so designated, inserted findings concerning rail service providing passenger safety with minimum expenditure of energy and representing a national asset during a national emergency or energy shortage, and added subsec. (b).

Effective Date of 1979 Amendment

Section 501(a) of Pub. L. 96–73 provided that: "Except as provided in subsection (b) [set out as an Effective Date of 1979 Amendment note under section 743 of this title], the provisions of this Act [enacting sections 501a, 566, and 647 to 650 of this title, amending sections 501, 502, 545, 546, 548, 562 to 565, 601, 602, 712, 721, 724, 743, 825, 827, and 829 of this title and sections 1653 and 10388 of Title 49, Transportation, repealing section 641 of this title, enacting provisions set out as notes under sections 501, 545, 545a, 564, 565, and 602 of this title, and amending a provision set out as a note under section 521 of this title] shall take effect on October 1, 1979."

Short Title of 1979 Amendment

Section 101 of Pub. L. 96–73 provided that: "This title [enacting sections 501a, 566, and 647 to 650 of this title, amending sections 501, 502, 545, 546, 548, 562 to 565, 601, and 602 of this title and section 1653 of Title 49, Transportation, repealing section 641 of this title, enacting provisions set out as notes under sections 545, 545a, 564, 565, and 602 of this title, and amending a provision set out as a note under section 521 of this title] may be cited as the 'Amtrak Reorganization Act of 1979'."

Short Title of 1978 Amendment

Pub. L. 95–421, § 1, Oct. 5, 1978, 92 Stat. 923, provided that: "This Act [enacting sections 545a, 546a, and 646 of this title, amending sections 541, 545, 562, 563, 601, 602, 853, and 854 of this title and section 1653 of Title 49, Transportation, and enacting provisions set out as notes under sections 521 and 541 of this title] may be cited as the 'Amtrak Improvement Act of 1978'."

§ 501a. Goals

The Congress hereby establishes the following goals for Amtrak:

(1) Improvement of on-time performance by at least 50 percent within the three-year period beginning on September 29, 1979.

(2) Implementation of schedules which provide a systemwide average speed of at least 55 miles per hour, and which can be adhered to with a degree of reliability and passenger comfort.

(3) Improvement of the ratio of revenues to operating expenses, with the goal of coverage of at least 44 percent of operating expenses, excluding depreciation, from revenues by the end of fiscal year 1982 and 50 percent by the end of fiscal year 1985.

(4) Improvement of the feasibility of State-subsidized service through the use of techni-

cal assistance panels to coordinate, plan, and implement such service.

(5) Encouragement of rail carriers to assist in improving intercity rail passenger service.

(6) General improvement of Amtrak's performance through comprehensive, systematic operational programs and employee incentives.

(Pub. L. 91-518, title I, § 102, as added Pub. L. 96-73, title I, § 103(a), Sept. 29, 1979, 93 Stat. 537.)

PRIOR PROVISIONS

A prior section 102 of Pub. L. 91-518 was renumbered 103 by Pub. L. 96-73, § 103(a), Sept. 29, 1979, 93 Stat. 537, and is classified to section 502 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 502. Definitions

For the purposes of this chapter—

(1) "Amtrak" means the National Railroad Passenger Corporation created under subchapter III of this chapter.

(2) "Auto-ferry service" means intercity rail passenger service characterized by transportation of automobiles or recreational vehicles and their occupants.

(3) "Avoidable loss" means the avoidable costs of providing passenger service, less revenues attributable thereto, as determined by the Interstate Commerce Commission under the provisions of section 553 of title 5.

(4) "Basic system" means (A) prior to October 1, 1979, the system of intercity rail passenger service designated by the Secretary under subchapter II of this chapter and section 563(a) of this title, and (B) on and after October 1, 1979, the system of intercity rail passenger service designated by the Secretary under section 4 of the Amtrak Improvement Act of 1978 (Public Law 95-421) and approved by the Congress, and service required to be operated under sections 564(d) and 564(e) of this title and under section 4(g) of the Amtrak Improvement Act of 1978, including changes to such system or service made by the Corporation using the Route and Service Criteria.

(5) "Center" means the Performance Evaluation Center established under section 545 of this title.

(6) "Commission" means the Interstate Commerce Commission.

(7) "Corporation" means the National Railroad Passenger Corporation created under subchapter III of this chapter.

(8) "Intercity rail passenger service" means all rail passenger service other than commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations.

(9) "Model Program" means a program carried out by the Corporation under section 646 or section 648 of this title and the employee assistance program established by the Corporation.

(10) "Panel" means a Technical Assistance Panel established under section 563(b) of this title.

(11) "Rail carrier" and "railroad" mean a person providing railroad transportation for compensation.

(12) "Regional transportation agency" means an authority, corporation, or other entity established for the purpose of providing passenger service within a region.

(13) "Route and Service Criteria" means the Criteria and Procedures for Making Route and Service Decisions established pursuant to section 564(c) of this title.

(14) "Secretary" means the Secretary of Transportation or his delegate unless the context indicates otherwise.

(Pub. L. 91-518, title I, § 103, formerly § 102, Oct. 30, 1970, 84 Stat. 1328; amended Pub. L. 93-146, § 2, Nov. 3, 1973, 87 Stat. 548; renumbered and amended Pub. L. 96-73, title I, §§ 103(a), 104, Sept. 29, 1979, 93 Stat. 537, 538.)

REFERENCES IN TEXT

Section 4 of the Amtrak Improvement Act of 1978 (Public Law 95-421), referred to in par. (4), is Pub. L. 95-421, § 4, Oct. 5, 1978, 92 Stat. 923, which is set out as a note under section 521 of this title.

AMENDMENTS

1979—Par. (1). Pub. L. 96-73, § 104, added par. (1). Former par. (1) redesignated (11).

Par. (2). Pub. L. 96-73, § 104, redesignated former par. (9) as (2), and in par. (2) as so redesignated, included transportation of recreational vehicles. Former par. (2) redesignated (14).

Par. (3). Pub. L. 96-73, § 104, redesignated former par. (6) as (3), and in par. (3) as so redesignated, substituted "under" for "pursuant to". Former par. (3) redesignated (6).

Par. (4). Pub. L. 96-73, § 104, designated existing provision as cl. (A), and in cl. (A) as so designated, provided that cl. (A) be applicable to service prior to Oct. 1, 1979, and added cl. (B).

Par. (5). Pub. L. 96-73, § 104, added par. (5). Former par. (5) redesignated (8).

Par. (6). Pub. L. 96-73, § 104, redesignated former par. (3) as (6). Former par. (6) redesignated (3).

Par. (7). Pub. L. 96-73, § 104, reenacted par. (7) without change.

Par. (8). Pub. L. 96-73, § 104, redesignated former par. (5) as (8). Former par. (8) redesignated (12).

Par. (9). Pub. L. 96-73, § 104, added par. (9). Former par. (9) redesignated (2).

Par. (10). Pub. L. 96-73, § 104, added par. (10).

Par. (11). Pub. L. 96-73, § 104, redesignated former par. (1) as (11), and in par. (11) as so redesignated, substituted "'Rail carrier' and 'railroad' mean a person providing railroad transportation for compensation" for "'Railroad' means a common carrier by railroad, as defined in section 1(3) of Title 49 other than the corporation created by subchapter III of this chapter".

Par. (12). Pub. L. 96-73, § 104, redesignated former par. (8) as (12).

Par. (13). Pub. L. 96-73, § 104, added par. (13).

Par. (14). Pub. L. 96-73, § 104, redesignated former par. (2) as (14).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

SUBCHAPTER II—BASIC NATIONAL RAIL PASSENGER SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 502 of this title.

§ 521. Designation of system

CODIFICATION

Section 13a of title 49, referred to in text, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by sections 10908 and 10909 of Title 49.

ROUTE SYSTEM FOR NATIONAL RAILROAD PASSENGER CORPORATION TO PROVIDE OPTIMAL INTERCITY RAILROAD PASSENGER SERVICE

Pub. L. 95-421, § 4, Oct. 5, 1978, 92 Stat. 923, as amended by Pub. L. 96-73, title I, § 127, Sept. 29, 1979, 93 Stat. 552, provided that:

"(a) The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary'), in cooperation with the National Railroad Passenger Corporation (hereinafter in this section referred to as the 'Corporation'), shall immediately develop preliminary recommendations for a route system for the Corporation which will provide and [*sic*] optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the Corporation's existing route system. In developing such recommendations, the Secretary shall consider—

"(1) any unique characteristics and advantages of rail service as compared to other modes of transportation;

"(2) the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

"(3) the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the benefits in passenger per train mile and revenues earned and computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

"(4) the transportation needs of areas lacking adequate alternative forms of transportation;

"(5) frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

"(6) the adequacy of other transportation modes serving the same points to be served by the recommended route system.

"(b) The Secretary shall, no later than May 1, 1978, develop and publish the preliminary recommendations described in subsection (a) of this section and submit a copy of such recommendations to the Rail Services Planning Office and to both Houses of the Congress. The Secretary shall at that time also provide copies of the preliminary recommendations to the Corporation, the Office of Rail Public Counsel, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act [section 151 et seq. of this title] to represent railroad employees, and the United States Postal Service. In addition, copies of the preliminary recommendations shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

"(1) a recommended route system by end points and principal intermediate points to be served;

"(2) quality and type of service recommended for each route, including frequency, speed, and classes of services offered;

"(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile and separated for non-State supported routes and State supported routes;

"(4) an estimate of the equipment and facilities necessary to support the recommended system;

"(5) a recommendation for coordinating passenger rail service at points on the system with other modes of transportation serving such points; and

"(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

"(c) During the period beginning May 1, 1978, and ending August 31, 1978, the Rail Services Planning Office shall conduct public hearings on the preliminary recommendations developed by the Secretary under this section. Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities the greatest opportunity to participate. The Office of Rail Public Counsel, to the extent practicable, shall provide the services of attorneys and such other personnel as may be required in order to protect the interests of those communities and users of rail passenger service which the Director of the Office of Rail Public Counsel determines, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the hearings and evaluations which the Rail Services Planning Office is required to conduct. During such period, in addition to holding public hearings, the Rail Services Planning Office shall invite comment on such recommendations from the Corporation, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act [section 151 et seq. of this title] to represent railroad employees, interested citizens groups, and the United States Postal Service.

"(d) The Rail Services Planning Office shall, no later than September 30, 1978, submit to the Secretary a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c) of this section, together with its critique and evaluation of the preliminary recommendations of the Secretary. The Secretary shall thoroughly consider the material submitted by the Office with respect to such recommendations and, based on such consideration (and further evaluations of the Secretary), develop final recommendations for a route system for the Corporation as he deems appropriate. In developing such final recommendations, the Secretary shall also consider the impact of such recommendations upon existing tourism markets and the potential for future tourism in areas to be served by the recommended route system. Such final recommendations shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation.

"(e)(1) The Secretary shall, no later than December 31, 1978, submit the final recommendations designating the basic route system, together with supporting and explanatory material, to both Houses of the Congress and to the Committee on Appropriations and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved, and shall take effect, at the end of the first period of 90 calendar days of continuous session of the Congress after such date of submission, unless either the House of Representatives or the Senate adopts a resolution during such period stating that it does not favor such final recommendations.

"(2) If either the House of Representatives or the Senate adopts a resolution of disapproval under paragraph (1), the Secretary shall, within 45 days after the date of adoption, determine and resubmit a revised recommendation. Each such revised plan shall be submitted to the Congress for review pursuant to paragraph (1) of this subsection.

"(3) For the purposes of this subsection—

"(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 90-day period.

"(f) Notwithstanding any other provision of law, the route system of the Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this subsection shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service provided under an agreement with a State pursuant to section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) if such State fails to meet its share of the costs of such service or requests discontinuance of such service.

"(g) Subject to subsection (f) of this section, immediately upon approval of the final recommendations of the Secretary, the Corporation shall implement the basic route system designated in such recommendations and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months after the date of such approval: *Provided, however,* That implementation of the Secretary's recommendations which require (1) operation over rail lines not used in intercity passenger service upon the date of approval thereof; (2) use of new facilities; or (3) new labor agreements, may be deferred by the Corporation until any necessary, capital improvements in such lines or facilities, or required labor agreements, are made, to permit service that is equivalent or improved service and is consistent with the goals contained in subsection (a) of this section: *And provided further,* That, notwithstanding any other provision of law, pending deferred implementation of such recommendations, the Corporation shall provide substitute service over existing routes which are recommended for restructuring in whole or in part and over other feasible existing routes, without reference to the Route and Service Criteria. Substitute service provided over an existing route under this paragraph shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in section 404(d)(1) of the Rail Passenger Service Act [section 564(d)(1) of this title], as adjusted to reflect constant 1979 dollars; but excepting any short-haul route concentrating on commuter ridership.

"(h)(1) The provisions of section 404(c)(1) of the Rail Passenger Service Act (45 U.S.C. 564(c)(1)), including the criteria and procedures developed under such section, shall not apply to the preliminary or final recommendations developed by the Secretary under this section. After the date of approval of the basic system designated in the final recommendations of the Secretary, any additions, deletions, or modifications in such basic system may be made by the Corporation in accordance with the criteria and procedures developed under such section 404(c)(1).

"(2) During the period beginning on the date of enactment of this section [Oct. 5, 1978], and ending 12 months after the date of approval of the new basic route system designated by the Secretary under this section, the provisions of section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a) [repealed]) (including the regulations of the Commission promulgated thereunder) shall not apply to the development or implementation of the new basic route system.

"(i) Subject to subsection (f) of this section, the basic system designated in the final recommendations of the Secretary shall, after the date upon which such recommendations are approved, supersede any other system or route previously in effect."

SUBCHAPTER III—NATIONAL RAILROAD PASSENGER CORPORATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 502 of this title.

§ 541. Establishment of the corporation

There is authorized to be created a National Railroad Passenger Corporation. The Corporation shall be operated and managed as a for profit corporation, the purpose of which shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act [D.C. Code, sec. 29-901 et seq.]. The right to repeal, alter, or amend this chapter at any time is expressly reserved.

(As amended Pub. L. 95-421, § 11, Oct. 5, 1978, 92 Stat. 928.)

AMENDMENTS

1978—Pub. L. 95-421 added "operated and managed as" preceding "a for profit corporation".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 20 of Pub. L. 95-421 provided that:

"(a) Except as provided in subsection (b) or (c) of this section, the provisions of this Act and the amendments made by this Act [enacting sections 545a, 546a, and 646 of this title, amending sections 541, 545, 562, 563, 601, 602, 853, and 854 of this title and section 1653 of Title 49, Transportation, and enacting provisions set out as notes under sections 501 and 521 of this title] shall take effect on the date of enactment of this Act [Oct. 5, 1978].

"(b) The provisions of section 7 of this Act [enacting section 546a of this title] shall take effect on January 1, 1979.

"(c) The amendments made by section 9 and section 16 of this Act [amending sections 854 and 563, respectively, of this title] shall take effect on October 1, 1978."

§ 544. Common and preferred stock

CODIFICATION

Section 1(3)(b) of title 49, referred to in subsecs. (a) and (b), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 10102 of Title 49.

§ 545. General powers

[*See main edition for text of (a) and (b)*]

(c) Transportation and reduced fare program for elderly and handicapped individuals

(1) The Corporation is authorized to take all steps necessary to insure that no elderly or handicapped individual is denied intercity

transportation on any passenger train operated by or on behalf of the Corporation, including but not limited to, acquiring special equipment and devices and conducting special training for employees; designing and acquiring new equipment and facilities and eliminating architectural and other barriers in existing equipment and facilities to comply with the highest standards for the design, construction, and alteration of property for the accommodation of elderly and handicapped individuals; and providing special assistance while boarding and alighting and in terminal areas to elderly and handicapped individuals.

(2)(A) Within 90 days after September 29, 1979, the Corporation shall establish a reduced fare program for elderly and handicapped individuals.

(B) For purposes of this paragraph—

(i) the term "elderly individual" means a person who has attained the age of 65 years; and

(ii) the term "handicapped individual" means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has record of such an impairment, or is regarded as having such an impairment, but the term handicapped individual does not include any person who is an alcoholic or drug abuser.

[*See main edition for text of (d) and (e)*]

(f) Operational improvement program; comprehensive plan, submittal to President and Congress

The Corporation shall, not later than January 1, 1981, develop and submit to the Congress and to the President a comprehensive plan for the improvement of all intercity rail passenger service provided in the basic system. The Corporation shall commence implementation of such plan as soon as practicable after all or any portion thereof is developed. Such plan shall include—

(1) a zero-based assessment of all operating practices and implementation of changes to achieve the minimum use of employees consistent with safe operations and adequate service;

(2) a systematic program for optimizing the ratio of train size to passenger demand;

(3) a systematic program for trip time reduction on all trains in the basic system;

(4) establishment of training programs to achieve on-time departures and priorities for passenger trains over freight trains en route;

(5) adjustment of purchasing and pricing of food and beverages to achieve, as soon as practical after September 29, 1979, a continuing reduction in losses associated with food and beverage services with a goal of ultimate profitability;

(6) cooperative marketing opportunities between the Corporation and governmental entities at all levels having intercity rail passenger service; and

(7) cooperative marketing campaigns sponsored by the Corporation and the Department of Energy, the Federal Highway Administration, and the Environmental Protection Agency.

(g) Maintenance, rehabilitation, repair and refurbishment of rail passenger equipment

The Corporation shall, not later than January 1, 1980, establish a Regional Maintenance Plan. Such plan shall include—

(1) a review panel at corporate headquarters consisting of such members as the President of the Corporation shall designate;

(2) a systemwide inventory of spare equipment parts by operational regions;

(3) establishment of the necessary number of maintenance employees per number of cars and locomotives per region;

(4) establishment of a systematic preventive maintenance program;

(5) a method for periodic evaluation of maintenance costs, time lags, and parts shortages with appropriate corrective actions; and

(6) such other elements or activities as the Corporation considers appropriate.

(h) Northeast Corridor project; completion and implementation; assistance by Corporation

The Corporation shall advise, consult and cooperate with, and, upon request, is authorized to assist in any other manner the Secretary, the United States Railway Association, the Corps of Engineers, and the Consolidated Rail Corporation in order to facilitate completion and implementation of the Northeast Corridor project, as defined in section 716(a)(3) of this title, by the earliest practicable date. The Secretary shall assign the highest priority to the completion of such project.

(i) Customs inspection and immigration procedures

The Secretary of the Treasury and the Attorney General shall (consistent with the effective enforcement of the immigration and customs laws) establish and maintain, in cooperation with the Corporation, en route customs inspection and immigration procedures aboard trains operated in international intercity rail passenger service, which procedures will be convenient for passengers and will result in the most rapid possible transit in international intercity rail passenger service.

(j) Railroad police; employment by Corporation

The Corporation is authorized to employ railroad police for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Railroad police employed by the Corporation who have complied with the provisions of any State law setting forth licensing, residency, or related requirements applicable to railroad police or persons employed in similar positions may be employed without regard to the provisions of any other State's laws setting forth such requirements.

(k) Purchase of articles, materials and supplies mined, manufactured or produced in United States; exceptions

(1) Except as provided in paragraph (2) or (3) of this subsection, the Corporation shall purchase only—

(A) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

(B) manufactured articles, materials, and supplies which have been manufactured in

the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

(2) The Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

(A) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

(B) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

(C) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(3) In addition to the exemptive authority set forth in paragraph (2), the Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of rolling stock or power train equipment if the Secretary determines that such rolling stock or power train equipment, as the case may be, cannot be purchased and delivered in the United States within a reasonable time.

(4) The provisions of this subsection shall not apply—

(A) in any case in which the cost of the articles, materials, or supplies purchased is less than $1,000,000; or

(B) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before October 5, 1978.

(5) For purposes of this subsection, the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(l) Performance Evaluation Center; establishment; function; reports to Congress and Secretary

The Corporation shall establish a Performance Evaluation Center within the Corporation which shall have the responsibility of providing an ongoing review of operations. The Center should evaluate both short-term and long-term operational problems and make recommendations for improvement of operations. Each six months, the Corporation shall submit a report of the Center's activities and recommendations to the appropriate authorizing committees of both Houses of Congress and to the Secretary.

(m) Adequacy of service reports

For purposes of assessing the operational performance of trains, the President of the Corporation shall have the authority to direct the conductor on any Amtrak train to report to the Center any inadequacy of train operation. Adequacy of service reports required under this subsection shall be promptly transmitted to the Center. Each report shall be signed by the conductor and contain sufficient information to locate equipment or personnel failures.

(As amended Pub. L. 95-421, § 10, Oct. 5, 1978, 92 Stat. 928; Pub. L. 96-73, title I, §§ 105-111(a), Sept. 29, 1979, 93 Stat. 539-541.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-73, § 105, designated existing provision as par. (1) and added par. (2).

Subsec. (f). Pub. L. 96-73, § 106, added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 96-73, §§ 106, 107, redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, substituted provision for establishment of a regional maintenance plan for prior requirement for maintenance, rehabilitation, repair and refurbishment of rail passenger equipment. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 96-73, § 106, redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 96-73, § 106, redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 96-73, §§ 106, 108, redesignated former subsec. (i) as (j), and in subsec. (j) as so redesignated, substituted "railroad police" for "security guards" in two instances and "Railroad police" for "Security guards". Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 96-73, §§ 106, 109, redesignated former subsec. (j) as (k), and in subsec. (k) as so redesignated, added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (*l*). Pub. L. 96-73, § 110, added subsec. (*l*).

Subsec. (m). Pub. L. 96-73, § 111(a), added subsec. (m).

1978—Subsec. (j). Pub. L. 95-421 added subsec. (j).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-421 effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

AMTRAK ROUTE ALLOCATION STUDY

Section 132 of Pub. L. 96-73 provided that:

"(a) COST ALLOCATION REPORT.—(1) Not later than April 30, 1980, the President of the National Railroad Passenger Corporation shall submit a report to the Congress on the feasibility of establishing a system of uniform cost allocation for the Corporation which would include—

"(A) the avoidable cost by route;

"(B) the revenue (including mail and State subsidies, if any) by route;

"(C) the fully allocated cost by route;

"(D) the number of passengers carried by route;

"(E) the avoidable profit or loss by route;

"(F) the fully allocated profit or loss by route;

"(G) the profit or loss per passenger by route; and

"(H) the profit or loss by revenue passenger mile.

"(2) For the purposes of this section, the term—

"(A) 'avoidable profit or loss' means the result of all revenue attributable to a route minus all reasonable and necessary expenses (including use of tracks and other facilities) which would be incurred by a carrier in providing a service which the carrier can establish that it would not incur if such service were not operated, and all other services were continued; such costs shall be restricted to costs solely related to the service and variable portion of common costs which would not be incurred but for the existence of the service; such costs shall exclude fixed common costs, allocation of any common costs which do not

vary as a consequence of providing the service, return on investment, rent, and any other costs which the carrier cannot establish that it would not have reasonably and necessarily incurred but for the existence of the service;

"(B) 'fully allocated profit or loss' means the avoidable costs plus all other costs, other than unallocated costs, allocated to a route according to the Corporation's current accounting practices; and

"(C) 'unallocated costs' means those corporate interest, general, and administrative costs not assigned to particular routes.

"(b) PROFIT AND LOSS REPORT.—(1) The Corporation shall prepare and submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives not later than April 30, 1980, a report containing—

"(A) a profit and loss table by route for the upcoming fiscal year, assuming a 50 percent Government reimbursement of the fully allocated losses experienced by each such route; and

"(B) the average ticket subsidy required to show a systemwide public service profit (above and beyond such 50 percent Government reimbursement) for the upcoming fiscal year.

"(2) Such reports shall be based on the best possible data available to the Corporation including, but not limited to, historical ridership trends, marketing studies, general economic conditions, ticket pricing policies, levels of services and equipment availability among other factors.

"(3) For the purposes of this section, the term 'public service profit' means the profit or loss experienced on each route after the Government subsidies (both operating and ticket) are added to such route's revenues."

MAIL AND EXPRESS REVENUES; REPORT TO CONGRESS

Section 131 of Pub. L. 96-73 provided that: "The National Railroad Passenger Corporation shall, in conjunction with the United States Postal Service, determine those mail transportation requirements which can be met by the Corporation and shall develop and submit to the Congress, no later than April 30, 1980, a report setting forth recommendations designed to enable the Corporation to achieve maximum levels of mail carriage and revenues derived from such carriage. Such report shall include the following considerations:

"(1) the modification of existing facilities to handle mail and express more efficiently;

"(2) the acquisition of modern materials handling equipment and rolling stock;

"(3) optimum scheduling;

"(4) trains devoted exclusively to mail carriage;

"(5) staffing and promotional requirements; and

"(6) proposals for such legislative action as may be appropriate."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 561, 562, 565 of this title.

§ 545a. Mail service

The National Railroad Passenger Corporation shall utilize all feasible means, including taking into account the needs of the United States Postal Service in establishing schedules, to attract and service the bulk mail needs of the Postal Service.

(Pub. L. 95-421, § 19, Oct. 5, 1978, 92 Stat. 930.)

CODIFICATION

Section was enacted as part of the Amtrak Improvement Act of 1978, and not as a part of the Rail Passenger Service Act of 1970 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

§ 546. Laws applicable

(a) Corporation deemed common carrier subject to Interstate Commerce provisions; exceptions

The Corporation shall be deemed a common carrier by railroad within the meaning of section 1(3) of the Interstate Commerce Act [49 U.S.C. 1(3)] and shall be subject to all provisions, including the provisions of section 22(1) of the Interstate Commerce Act [49 U.S.C. 22(1)] other than those pertaining to—

[*See main edition for text of (1) and (2)*]

(3) regulation of routes and service and, except as otherwise provided in this chapter, the discontinuance or change of passenger train service operations; and

(4) the issuance of securities or the assumption of any obligation or liability with respect to the securities of others.

[*See main edition for text of (b) to (i)*]

(j) Intercity through routes and joint fares; cooperation between Corporation and other intercity common carriers of passengers

[*See main edition for text of (1)*]

(2) The Corporation may establish through routes and joint fares with any any [1] domestic or international motor, air, or water carrier.

[*See main edition for text of (k)*]

(l) State or local laws relating to pay periods or pay days inapplicable; frequency of payments

The Corporation shall not be subject to any State or local law relating to pay periods or days for payment of employees. No employee of the Corporation shall be paid less frequently than such employee is paid as of October 1, 1979, other than pursuant to an applicable collective bargaining agreement.

(m) Business activity and qualification; District of Columbia as principal office and place of business for process and citizenship for original federal jurisdiction

The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this chapter. In connection with the performance of such activities, the Corporation shall accept service of process addressed by certified mail to the secretary of the Corporation at its principal office and place of business in Washington, District of Columbia. The Corporation shall be deemed to be a citizen of the District of Columbia for the purpose of determining the original jurisdiction of the district courts of the United States in civil actions to which the Corporation is party.

(As amended Pub. L. 96-73, title I, § 112, 93 Stat. 541.)

[1] So in original. The word "any" the second time it appears probably should be deleted.

CODIFICATION

Sections 1(3) and 22(1) and part I of the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), referred to in subsecs. (a) and (b), which were classified to sections 1(3) and 22(1) and chapter 1 (§ 1 et seq.) of Title 49, Transportation, were repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Sections 1(3), and 22(1) and part I are now covered by sections 10102 and 10721-10724 and subchapter I (§ 10501 et seq.) of chapter 105 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1979—Subsec. (a)(4). Pub. L. 96-73, § 112(a), added par. (4).

Subsec. (j). Pub. L. 96-73, § 112(b), substituted "any domestic or international motor, air, or water carrier" for "motor carrier".

Subsecs. (*l*), (m). Pub. L. 96-73, § 112(c), added subsecs. (*l*) and (m).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 546a of this title.

§ 546a. Juridiction of Interstate Commerce Commission over rate, fare, charge, or marketing practice

Notwithstanding the provisions of section 546 of this title, the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of part 1 of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route or service which operates at a loss for the purpose of hearing the complaint over an unfair or predatory practice.

(Pub. L. 95-421, § 7, Oct. 5, 1978, 92 Stat. 927.)

CODIFICATION

Section was enacted as part of the Amtrak Improvement Act of 1978, and not as a part of the Rail Passenger Service Act of 1970 which comprises this chapter.

Part I of the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), referred to in text, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

EFFECTIVE DATE

Section effective Jan. 1, 1979, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

§ 548. Reports to the President and the Congress

(a) Monthly operations

(1) Not later than the 45th day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

(A) Total itemized revenues and expenses.

(B) Revenues and expenses of each train operated.

(C) Revenues and total expenses attributable to each railroad over which service is provided.

[*See main edition for text of (2); (b) and (c)*]

(As amended Pub. L. 96-73, title I, § 113, Sept. 29, 1979, 93 Stat. 542.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-73 substituted "45th day" for "eightieth day".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

SUBCHAPTER IV—PROVISION OF RAIL PASSENGER SERVICES

§ 561. Assumption of intercity rail passenger service by the Corporation

CODIFICATION

Part I and section 13a(1) of the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), referred to in subsec. (a)(1), which were classified to chapter 1 (§ 1 et seq.) and section 13a(1) of Title 49, Transportation, were repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Part I and section 13a(1) are now covered by subchapter I (§ 10501 et seq.) of chapter 105 and section 10908, respectively, of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 562. Facilities and service agreements

(a) Contracts with railroads or regional transportation agencies; authority of Interstate Commerce Commission; fixing of compensation; agreements with State, local or regional transportation agencies; disagreement procedures; criteria for compensation

The Corporation may contract with railroads or with regional transportation agencies for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree, the Interstate Commerce Commission shall, within ninety days after application by the Corporation, if it finds that doing so is necessary to carry out the purposes of this chapter, order the provision of services or the use of tracks or facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable, and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission. In fixing just and reasonable compensation for the provision of services or for the use of tracks and facilities ordered by

the Commission under the preceding sentence, the Commission shall, in fixing compensation in excess of incremental costs, consider quality of service as a major factor in determining the amount (if any) of such compensation. If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed. Notwithstanding any other provision of this chapter, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks, rights-of-way, and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973 [45 U.S.C. 701 et seq.] and the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 801 et seq.]. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services.

[*See main edition for text of (b) to (f)*]

(g) Uniform contract; special or charter train operations; notice; compensation for rail services; schedule and routing notification

The Corporation shall enter into a contract with rail carriers on an industrywide basis to establish rights for the operation of special or charter trains between specific routes and points anywhere in the Nation upon provision of reasonable notice (of not less than seven days) to the carriers involved in the operation of any special or charter trains, except that with respect to rail lines on which rail passenger service has not been operated for the preceding 180 days, reasonable notice under this sentence shall be notice of not less than 21 days. If the Corporation and the rail carriers are unable to reach agreement by January 1, 1981, the Commission shall, upon application by the Corporation, order rail services to be provided under this subsection and shall, consistent with just and reasonable compensation principles, determine within 180 days after such date the proper amount of compensation for the provision of such services and the proper method of prior notification of the schedule and routing of a special or charter train by the Corporation.

(As amended Pub. L. 95–421, § 15, Oct. 5, 1978, 92 Stat. 929; Pub. L. 96–73, title I, § 114, Sept. 29, 1979, 93 Stat. 542.)

AMENDMENTS

1979—Subsec. (g). Pub. L. 96–73 added subsec. (g).

1978—Subsec. (a). Pub. L. 95–421 added "or for the use of tracks and facilities" following "provision of services".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96–73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 565, 852 of this title; title 49 section 10362.

§ 563. Rail Service beyond basic system

(a) Route additions

Except as otherwise provided in this chapter, after October 1, 1979, all route additions shall be in accordance with the Route and Service Criteria.

(b) Application for additional service; submission date; contents; review by Corporation; Technical Assistance Panel, membership, recommendations; additional service agreements and renewals; public interest and preferences; fare increases; Federal funding limitation; funding upon resumption of terminated services; expenditure of available funds; reimbursement for staff services; advertising and promotion limitation

(1)(A) Any State or group of States, or any regional or local agency, may submit an application to the Corporation requesting the institution of rail passenger service in addition to that service provided in the basic system.

(B) An application for rail passenger service under this subsection shall be submitted at least 180 days prior to the beginning of the fiscal year in which such service is to be operated, except that an application for service to be operated in the fiscal year ending September 30, 1980, shall be submitted no later than the 60th day following the beginning of such fiscal year.

(C) Each application by a State or agency for rail passenger service under this subsection shall contain—

(i) adequate assurances by such State or agency that it has sufficient resources to meet its share of the cost of such service for the period such service is to be provided;

(ii) a market analysis acceptable to the Corporation to ensure that there is adequate demand to warrant such service;

(iii) a statement by such State or agency that it agrees to provide 20 percent of the solely related costs of such service in the first year of operation, 35 percent of such costs in the second year of operation, and 50 percent of such costs in each year of operation thereafter; and

(iv) a statement by such State or agency that it agrees to provide, in each year of operation of such service, 50 percent of the associated capital costs of operating such service.

(2)(A) The Corporation shall review each application submitted by a State or agency for the institution of service under this subsection and shall convene a Technical Assistance Panel to

consider such application if the Corporation determines that—

(i) the application complies with requirements of paragraph (1)(C) of this subsection; and

(ii) there is a reasonable probability that the service requested can be provided with the resources available to the Corporation.

(B) The Corporation shall make its determinations under this paragraph, and convene a panel if appropriate, at least 150 days prior to the beginning of the fiscal year in which the service requested is to be operated, except that with respect to an application for service to be operated in the fiscal year ending September 30, 1980, the Corporation shall make its determinations, and convene a panel if appropriate, no later than 30 days after the date such application is submitted.

(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of paragraph (1)(C) of this subsection.

(3)(A) Each panel convened by the Corporation to consider an application shall be composed of—

(i) a State rail planning official from each State that is a party to the application;

(ii) a representative of the Corporation;

(iii) a representative from a railroad labor organization representing operating crafts of employees; and

(iv) a representative from a railroad labor organization representing nonoperating crafts of employees.

(B) The Corporation shall submit to each panel data projecting the solely related costs and associated capital costs of operating the service under consideration. Each panel shall, no later than 90 days after the date it is convened, consider and make recommendations to the Corporation with respect to—

(i) appropriate measures for minimizing such costs, including measures such as—

(I) the assumption by the applicant State or agency of certain responsibilities in connection with the operation of the service under consideration; and

(II) a reduction in the labor costs of operating such service; and

(ii) if more than one State is a party to the application, the appropriate manner for allocating such costs among the applicant States.

(4)(A) After taking into account the recommendations of the panel with respect to rail passenger service requested by a State or agency under this subsection, the Corporation shall enter into an agreement with such State or agency for the institution of such service, in accordance with the funding formula set forth in paragraph (1)(C) of this subsection, if the Corporation determines that such service can be provided with resources available to the Corporation.

(B) An agreement entered into pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

(C) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system in effect prior to October 1, 1979, or the basic system in effect after such date, shall be given preference.

(5) Prior to instituting any fare increase that applies to service provided under this subsection and that represents an increase of more than 5 percent over a 6-month period, the Corporation shall consult with and obtain the views of the appropriate officials of each State to be affected by such fare increase. The Corporation shall provide the officials of each such State with an explanation of the circumstances warranting the proposed fare increase (such as the unique costs of or demand for the services involved).

(6)(A) Federal funds available for expenditure under this subsection shall not be in substitution for the average amount of State and local funds expended for the operation of rail services under this subsection in the State for the two fiscal years preceding the fiscal year for which the funds are made available.

(B) If service provided under this subsection on September 29, 1979, is terminated by a State or agency and such State or agency subsequently decides to resume such service, the Corporation shall agree to provide funding at the level provided under the contract in effect on such date.

(C) A State may add additional frequencies of service on an existing route. Additional frequencies shall be initiated in accordance with the funding formula described in paragraph (1)(C) of this subsection, without regard to funding ratios then in effect on other frequencies on such existing route.

(7)(A) Any funds provided by the Corporation under an agreement with an agency pursuant to this subsection which are allocated for associated capital costs and which are not expended during the fiscal year for which they are provided shall remain available until expended.

(B) An agency entering into an agreement with the Corporation for the operation of service under this subsection shall be entitled to reimbursement for staff services in an amount equal to 1½ percent of the operating losses and associated capital costs.

(C) The Board of Directors shall establish the basis for determining the solely related costs and associated capital costs of service operated under this subsection, and the total revenue from such service.

(8) Not more than five percent of all revenues generated by each particular route operated under the authority of this subsection shall be dedicated to advertising and promotion of such service on a local level.

(c) Repealed. Pub. L. 96-73, title I, § 115(c), Sept. 29, 1979, 93 Stat. 544

(d) Operation of commuter rail passenger service under agreement with State; reimbursement of avoidable costs; renewal agreements; funding of operations until April 1, 1981; commuter based fares; fare increments

(1) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than two years. For purposes of this subsection, the term "commuter rail passenger service" means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

(2) Any rail passenger service which is operated by the Corporation on January 1, 1979, and which constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, continue to be operated by the Corporation and funded in accordance with the method of funding in effect for that service on January 1, 1979. In addition, any rail passenger service which (A) is operated by the Consolidated Rail Corporation, (B) is the subject of an application for discontinuance filed with the Commission before July 15, 1979, and (C) constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, be operated by the Corporation and funded by the Corporation in the same manner as service operated under the preceding sentence.

(3) The Corporation shall, until April 1, 1981, continue to accept commuter based fares for any rail passenger service which it operates and for which such fares are accepted on January 1, 1979. Nothing in this paragraph shall be construed as prohibiting the Corporation or any other railroad from increasing the amount of any fare charged for rail passenger service.

(As amended Pub. L. 95-421, §§ 16-18, Oct. 15, 1978, 92 Stat. 929, 930; Pub. L. 96-73, title I, § 115, Sept. 29, 1979, 93 Stat. 542.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-73, § 115(a), substituted provision respecting route additions for provisions relating to authority to operate and designation of service as part of basic system.

Subsec. (b). Pub. L. 96-73, § 115(b), substituted provisions relating to application for additional rail passenger service for provisions relating to requests for additional services and sharing of losses due to additional services by State, regional, or local agencies.

Subsec. (c). Pub. L. 96-73, § 115(c), struck out subsec. (c), which provided for experimental routes, priority of routes, and the inapplicability of this subsection to route additions.

Subsec. (d). Pub. L. 96-73, § 115(d)(1)-(3), designated existing provisions as par. (1), and in par. (1) as so designated, authorized renewal agreements for one or more additional terms by mutual agreement, and added pars. (2) and (3).

1978—Subsec. (b)(1). Pub. L. 95-421, § 16, added provision relating to reimbursement to State or agency for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.

Subsec. (b)(2) to (4). Pub. L. 95-421, § 17, redesignated pars. (2) and (3) as (3) and (4), respectively, and added a new par. (2).

Subsec. (d). Pub. L. 95-421, § 18, added subsec. (d).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment of subsec. (b)(1) by Pub. L. 95-421 effective Oct. 1, 1978, see section 20(c) of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

Amendment of subsec. (b)(2) to (4) and (d) by Pub. L. 95-421 effective Oct. 5, 1978, see section 20(a) of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 564, 601 of this title.

§ 564. Addition to or discontinuance of routes and services

[*See main edition for text of* (a)]

(b) Route and Service Criteria for route discontinuances

After October 1, 1979, all route discontinuances by the Corporation shall be in accordance with the Route and Service Criteria.

(c) Development and submission of specific proposals; review of long-distance routes; review results, transmittal to Congress and Secretary of Transportation; inapplicability of Route and Service Criteria

[*See main edition for text of* (1) *to* (3)]

(4)(A) The Corporation shall conduct an annual review of each long-distance route in the basic system to determine if such route meets the criteria set forth in paragraph (1) of subsection (d) of this section, as adjusted to reflect constant 1979 dollars. If the Corporation determines, on the basis of such review, that a route fails to meet the criteria set forth in such paragraph, the Corporation shall evaluate such route under the Route and Service Criteria. If the Corporation determines, on the basis of such evaluation, that such route fails to meet the Route and Service Criteria, the Corporation shall discontinue the operation of rail passenger service over such route.

(B) The annual review conducted by the Corporation under subparagraph (A) shall include an evaluation of the potential market demand for, and the cost of providing service on, portions or segments of long-distance routes, and the potential market demand for, and cost of providing service on, alternative routings. The Corporation shall transmit the results of the annual review to each House of the Congress and to the Secretary of Transportation.

(5) The Route and Service Criteria shall not apply to—

(A) decisions of the Corporation to increase or, where construction schedules, other temporary disruptive factors, or seasonal fluctuations in ridership so warrant, to decrease frequency of service on existing routes or portions of existing routes or on routes where an additional frequency of service is being tested; and

(B) rerouting of service between major population centers on existing routes.

(d) Long distance and short distance route operations dependent on short term avoidable loss and passenger mile per train; factors; calculations; report to Congressional Committees

(1) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any long distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

(A) the short term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 7 cents per passenger mile; and

(B) the passenger mile per train mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 150.

Short term avoidable loss per passenger mile calculated by the Corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss and passenger mile per train mile shall be calculated in the same manner for all routes. The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period, except that the Corporation may also utilize historical data (such as seasonal fluctuations in ridership) as long as such data is adjusted to reflect the most recent available statistics. The Corporation shall, no later than 30 days after October 1, 1979, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile under this subsection.

(2) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any short-distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978 with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

(A) the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 9 cents per passenger mile; and

(B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.

(e) Long-distance quadrant routes; conditions for operation; alternative routes; criteria for continued service operations; Inter-American train to Mexican border

(1) In order to preserve regional balance in the national intercity rail passenger system and to ensure that long-distance routes recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978 which provide service to regions with few population centers in a large geographic area have equal opportunity to qualify for continued operation, the Corporation shall operate a long-distance route in each section of the United States (with sections being determined by dividing the United States into four quadrants) if—

(A) service is not maintained on any long-distance route in that section under the criteria set forth in subsection (d)(1) of this section; and

(B) the Corporation determines that (i) a long-distance route exists in that section which has shown and will show improvements in performance under the criteria, set forth in subsection (d)(1) of this section, and (ii) such route shows potential, under such criteria, to warrant maintenance in the system.

(2) The Corporation shall not continue to operate any route under this subsection if service is provided on a significant part of that route by any other route.

(3) Service operated on a route under this subsection shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in subsection (d)(1) of this section: *Provided*, That the Corporation shall continue to operate the Inter-American train to the Mexican border if that train meets the criteria set forth above.

(f) Saint Petersburg (Tampa) on the Amtrak Route System

For the purpose of this section and section 4 of the Amtrak Improvement Act of 1978, the reference to Tampa in table 4–1 at page 4–7 of the Secretary's Final Report to Congress on the Amtrak Route System, dated January 1979, shall be deemed to mean Saint Petersburg.

(g) Short-haul train demonstration of major metropolitan area linkage operations

Notwithstanding any other provisions of this chapter (including the requirements of section 563(d) of this title), the Corporation is authorized, to the extent available resources permit, to operate short-haul trains, on a demonstration basis for the purpose of determining the feasibility and benefits of such services, on additional routes of 200 miles or less which link two or more major metropolitan areas.

(As amended Pub. L. 96-73, title I, §§ 116(a), 117-119, Sept. 29, 1979, 93 Stat. 545, 546.)

REFERENCES IN TEXT

Section 4 of the Amtrak Improvement Act of 1978, referred to in subsecs. (d)(1), (2), (e)(1), and (f), is Pub. L. 95-421, § 4, Oct. 5, 1978, 92 Stat. 923, which is set out as a note under section 521 of this title.

CODIFICATION

Section 13a of title 49, referred to in subsecs. (a) and (c)(3), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by sections 10908 and 10909 of Title 49.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-73, § 116(a), substituted requirement of compliance with Route and Service Criteria for route discontinuances after Oct. 1, 1979, for former par. (1)-(4) provisions: (1) requiring provision of basic system services as contracted for until Oct. 1, 1976; (2) authorizing discontinuance of services, undertaken upon initiative of Corporation, at any time, but continuing services undertaken on or after Jan. 1, 1973, until Mar. 1, 1977; (3) authorizing discontinuance of services after Oct. 1, 1973, under prescribed procedures, on basis of public convenience and necessity and with regard to impact on other services, and notice of proposed changes or discontinuances, with provision for continuation of services subject to reimbursement for reasonable portion of operation losses; and (4) prescribing amount equal to 50 percent of total operating losses and associated capital costs as reasonable portion of losses for such services.

Subsec. (c)(4). Pub. L. 96-73, § 117, added par. (4).

Subsec. (c)(5). Pub. L. 96-73, § 118, added par. (5).

Subsecs. (d) to (g). Pub. L. 96-73, § 119, added subsecs. (d) to (g).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

SERVICE ON PORTION OR SEGMENT OF DISCONTINUED ROUTES; REPORT TO CONGRESS AND SECRETARY OF TRANSPORTATION

Section 130 of Pub. L. 96-73 provided that: "The National Railroad Passenger Corporation shall conduct an evaluation of the possibility of providing rail passenger service on a portion or segment of any route over which service is discontinued on or after October 1, 1979. Such evaluation shall include an examination of the potential market demand for rail passenger service over a portion or segment of any such discontinued route, and the cost of providing such service. The Corporation shall, no later than February 15, 1980, submit a report to both Houses of the Congress and to the Secretary of Transportation setting forth its findings under this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 545, 601 of this title.

§ 565. Protective arrangements for employees

[*See main edition for text of* (a) *to* (e)]

(f) Free or reduced-rate transportation for railroad employees; single systemwide schedule of terms and compensation; reimbursement of Corporation by railroads; retroactive relief after October 1, 1981; "railroad employee" defined

The Corporation shall take such action as may be necessary to assure that, to the maximum extent practicable, any railroad employee eligible to receive free or reduced-rate transportation by railroad on April 30, 1971, under the terms of any policy or agreement in effect on such date will be eligible to receive, provided space is available, free or reduced-rate transportation on any intercity rail passenger service provided by the Corporation under this chapter, on terms similar to those available on such date to such railroad employee under such policy or agreement. However, the Corporation may apply to all railroad employees eligible to receive free or reduced-rate transportation under such policies or agreements, a single systemwide schedule of terms determined by the Corporation to reflect terms applicable to the majority of such employees under those policies or agreements in effect on April 30, 1971. Unless the Corporation and a railroad or group of railroads agree on a different basis for compensation, the Corporation shall, during the 2-year period beginning on October 1, 1979, be reimbursed by each railroad at the rate of 25 percent of the systemwide average monthly yield per revenue passenger mile. Reimbursement at this rate is in lieu of any charges for liability incident to travel of railroad employees eligible for free or reduced-rate transportation and any other costs incurred by the Corporation in connection with free or reduced-rate transportation and any other costs incurred by the Corporation in connection with free or reduced-rate transportation.[1] Nothing in this subsection shall preclude the Commission from ordering retroactive relief in any proceeding instituted or reopened after October 1, 1981. As used in this subsection, the term "railroad employee" means (1) an active full-time employee, including any such employee during a period of furlough or while on leave of absence, of a railroad or terminal company, (2) a retired employee of a railroad or terminal company, and (3) the dependents of any employee referred to in clause (1) or (2) of this sentence.

(As amended Pub. L. 96-73, title I, § 120(a), Sept. 29, 1979, 93 Stat. 547.)

CODIFICATION

Section 5(2)(f) of the Interstate Commerce Act [49 U.S.C. 5(2)(f)], referred to in subsec. (b), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 11347 of Title 49.

AMENDMENTS

1979—Subsec. (f). Pub. L. 96-73 substituted provisions for reimbursement of the Corporation by each railroad during the two year period beginning Oct. 1, 1979, at rate of 25 percent of the systemwide average monthly yield per revenue mile in lieu of any charges for liability incident to travel of railroad employees eligible for free or reduced-rate transportation and any other costs incurred by the Corporation in connection with such transportation and authorizing the Commission to retroactively order relief in any proceeding instituted or reopened after Oct. 1, 1981, for provisions respecting reimbursement of the Corporation by railroads, agreements for expenses, decision of

[1] So in original. The phrase "and any other costs incurred by the Corporation in connection with free or reduced-rate transportation" the second time it appears should probably be deleted.

Commission respecting payments issue, and reimbursement of railroads not under contract with the Corporation for acceptance of schedule specified in agreements.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

STUDY AND REPORT CONCERNING REIMBURSEMENT OF CORPORATION FOR FREE OR REDUCED RATE TRANSPORTATION OF RAILROAD EMPLOYEES

Section 120(b) of Pub. L. 96-73 provided that: "The Comptroller General shall conduct a study of the free or reduced-rate transportation provided to railroad employees by the National Railroad Passenger Corporation under section 405(f) of the Rail Passenger Service Act [subsec. (f) of this section]. Within 180 days after the effective date of this Act [see Effective Date of 1979 Amendment note set out under section 501 of this title], the Comptroller General shall submit a report to the Congress and to the Interstate Commerce Commission setting forth recommendations regarding the appropriate means for reimbursing the Corporation for the cost of providing such transportation services, taking into account the value of the services being provided."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 601 of this title; title 49 sections 10903, 11347.

§ 566. Retention and maintenance of facilities

(a) Necessity of approval by Secretary for downgrading or disposal of facilities

No facilities of a railroad (including a regional transportation agency) which are used in the operation of rail passenger services by the Corporation on February 1, 1979, shall be downgraded or disposed of without obtaining the prior approval of the Secretary under this section.

(b) Notification; agreement of Corporation and railroad; applications for approval by Secretary

Whenever any railroad intends to downgrade or dispose of a facility referred to in subsection (a) of this section which is not currently being used in the operation of services by the Corporation, such railroad shall first notify the Corporation of its intention to take such action. If, within 60 days after receipt by the Corporation of such notice, the Corporation and such railroad are not able to enter into an agreement for the retention or maintenance of such facility or for the conveyance to the Corporation of such facility or an interest therein, the railroad may apply to the Secretary for approval of the downgrading or disposal of the facility.

(c) Approval of applications; objections to approval; payment of avoidable costs

(1) If the Corporation does not object to an application of a railroad to downgrade or dispose of a facility within 30 days after the date such application is submitted, the Secretary shall promptly approve such application.

(2) If the Corporation makes a timely objection to such an application, the Secretary shall, within 180 days after the date of such objection, determine the costs which the railroad could avoid if it were not required to maintain or retain the facility in the condition requested by the Corporation. If the Corporation does not, within 60 days after the date of the Secretary's determination, agree to pay such avoidable costs to the railroad, the Secretary shall approve such application.

(d) Avoidable costs-agreement considerations; analysis of facilities; survey plans

(1) In electing whether to enter into an agreement pursuant to this section to pay a railroad the avoidable costs of maintaining or retaining a facility, the Corporation shall consider—

(A) the potential importance of restoring rail passenger service on the route on which such facility is located;

(B) the market potential of such route;

(C) the availability, adequacy, and energy efficiency of alternate modes or alternate rail lines for providing passenger transportation to or near the points which would be served by the route;

(D) the extent to which major population centers would be served by such route;

(E) the extent to which the provision of service over such route would encourage the expansion of a national intercity rail passenger system; and

(F) the possibility of increased ridership on lines of railroad connecting with such route.

(2)(A) In order to prepare for a valid and timely analysis of a facility, after a railroad gives notice pursuant to this section that it intends to downgrade or dispose of such facility, the Corporation shall conduct a survey of population centers with railroad passenger service facilities and shall update such survey from time to time as may be necessary or appropriate. Within 90 days after September 29, 1979, the Corporation shall take steps to prepare a survey plan which shall provide for—

(i) a target completion date for the survey of population centers of not later than 360 days after the ninetieth day after September 29, 1979; and

(ii) a system of collection, compilation, and storage of information gathered pursuant to the survey according to geographic region and according to whether a facility would be part of a short- or long-haul route.

(B) The survey should facilitate an analysis of—

(i) ridership potential by ascertaining existing travel patterns or changing travel patterns which would maximize efficiencies of railroad passenger service;

(ii) the quality of service of competitors or likely competitors;

(iii) the likelihood of the Corporation offering service at a competitive fare;

(iv) opportunities to target advertising and fares to potential classes of riders;

(v) economic characteristics of railroad passenger service associated with a facility and the extent to which such characteristics are consistent with sound economic principles of short- or long-haul railroad operations; and

(vi) the feasibility of applying effective internal cost controls to a facility and the route which the facility would serve in order to im-

prove over time the ratio of transportation expenses, excluding maintenance of track, structure, and equipment and depreciation, to passenger revenue.

(e) Definitions; obligations unaffected by downgrading or disposal of facilities

For purposes of this section—

(1) the term "facilities" means railroad tracks, rights-of-way, fixed equipment and facilities, and real property appurtenant thereto, and includes signal systems, passenger station and repair tracks, station buildings, platforms, and adjunct facilities such as water, fuel, steam, electric, and air lines;

(2) the downgrading of a facility means a reduction in track classification as specified in the Federal Railroad Administration track safety standards (49 C.F.R. 213), or any other change in such facilities which may increase the time required for a passenger train to operate over the route on which such facility is located; and

(3) approval of downgrading or disposal under this section shall not be construed as relieving a railroad from compliance with its other common carrier or legal obligations with respect to a facility.

(Pub. L. 91-518, title IV, § 406, as added Pub. L. 96-73, title I, § 121, Sept. 29, 1979, 93 Stat. 548.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 601 of this title.

SUBCHAPTER VI—FEDERAL FINANCIAL ASSISTANCE

§ 601. Authorization of appropriations; payment of capital grants; temporary reduction of outstanding loan balances

(a) There are authorized to be appropriated to the Secretary for the benefit of the Corporation in fiscal year 1971, $40,000,000, and in subsequent fiscal years through June 30, 1975, a total of $597,300,000. There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

(1) for the payment of operating expenses for the basic system, including the payment of the additional operating expenses of the Corporation which result from the operation and maintenance of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), and for operating and capital expenses of rail passenger service provided pursuant to section 563(b) of this title, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, not to exceed $470,000,000 for the fiscal year ending September 30, 1978, and not to exceed $600,000,000 for the fiscal year ending September 30, 1979;

(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $130,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, and not to exceed $130,000,000 for the fiscal year ending September 30, 1979, which shall include funds for expenditures for compatible equipment under section 703(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(5)); and

(3) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this title, not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and not to exceed $25,000,000 for the fiscal year ending September 30, 1979.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 563(b) of this title. Funds appropriated pursuant to such authorization shall be made available to the Secretary during the fiscal year for which appropriated and shall remain available until expended. Such sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with spending plans approved by Congress at the time of appropriation and general guidelines established annually by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

(b)(1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

(A) for the payment of operating expenses, not to exceed $630,900,000 for the fiscal year ending September 30, 1980, and not to exceed $674,900,000 for the fiscal year ending September 30, 1981, of which not less than $1,200,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, shall be available for the cost of Model Programs;

(B) for the payment of the costs of capital acquisition or improvements to the basic system, including the payment of expenses for the retention and maintenance of facilities under section 566 of this title, not to exceed $203,000,000 for the fiscal year ending September 30, 1980, not to exceed $244,000,000 for the fiscal year ending September 30, 1981, and not to exceed

$254,000,000 for the fiscal year ending September 30, 1982;

(C) for the payment of operating and capital expenses of rail passenger service provided pursuant to section 563(b) of this title, not to exceed $23,800,000 for the fiscal year ending September 30, 1980, not to exceed $29,000,000 for the fiscal year ending September 30, 1981, and not to exceed $30,000,000 for the fiscal year ending September 30, 1982;

(D) for labor protection payments required pursuant to section 565 of this title, not to exceed $30,000,000 for the fiscal year ending September 30, 1980, not to exceed $12,000,000 for the fiscal year ending September 30, 1981, and not to exceed $20,000,000 for the fiscal year ending September 30, 1982; and any sums authorized by this subparagraph which remain available after such labor protection payments are made shall be made available to the Corporation for use in the payment of expenses and costs in accordance with subparagraphs (A) and (B) of this paragraph; and

(E) for the payment of the principal of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this title, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, not to exceed $25,000,000 for the fiscal year ending September 30, 1981, and not to exceed $25,000,000 for the fiscal year ending September 30, 1982.

(2) Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with (A) the Secretary's budget request as approved or modified by Congress at the time of appropriation, and (B) guidelines established by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

(3) Funds appropriated for capital grants pursuant to this subsection shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this title.

(As amended Pub. L. 95-421, §§ 2(a), (b)(1), 3, Oct. 5, 1978, 92 Stat. 923; Pub. L. 96-73, title I, § 122(a), (b)(1), Sept. 29, 1979, 93 Stat. 550, 551.)

REFERENCES IN TEXT

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (a)(1), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 enacted subchapter III (§ 851 et seq.) of chapter 17 of this title, amended sections 543, 545, 546, 562, 563, 564, and 791 of this title and section 1653 of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-73, § 122(b)(1)(A), (B), substituted "(a)" for "(a)(1)" and struck out par. (2), which provided for payment to the Corporation in each fiscal quarter of funds appropriated for capital grants and authorizing use of capital grants for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary. See subsec. (b)(3) of this section.

Subsec. (b). Pub. L. 96-73, § 122(a), added subsec. (b).

1978—Subsec. (a)(1)(1). Pub. L. 95-421, § 2(a)(1), substituted "including the payment of the additional operating expenses of the corporation which result from the operation and maintenance of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976" for "except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence", and added provision authorizing the appropriation of not to exceed $600,000,000 for the fiscal year ending September 30, 1979.

Subsec. (a)(1)(2). Pub. L. 95-421, § 2(a)(2), added provision for the authorization of appropriation of not to exceed $130,000,000 for the fiscal year ending Sept. 30, 1979, which shall include funds for expenditures for compatible equipment under section 853(5) of this title.

Subsec. (a)(1)(3), (4). Pub. L. 95-421, § 2(a)(3), (4), struck out cl. (3) relating to appropriation, for the payment of additional operating expenses of the corporation resulting from operation, maintenance and ownership or control of the Northeast Corridor, of not to exceed $68,000,000 for the transitional fiscal period ending Sept. 30, 1976 and fiscal year ending Sept. 30, 1977, and not to exceed $75,000,000 for fiscal year ending Sept. 30, 1978; redesignated cl. (4) as (3), and in cl. (3) as so redesignated, added "and not to exceed $25,000,000 for the fiscal year ending September 30, 1979".

Subsec. (a)(2). Pub. L. 95-421, § 2(b)(1), substituted "subsection (a)(3)" for "subsection (a)(4)".

Subsec. (b). Pub. L. 95-421, § 3, struck out subsec. (b), requiring a concurrent transmittal to Congress of any budget estimate or request, legislative recommendation, proposed testimony, or comments on legislation, submitted to the President, the Department of Transportation or the Office of Management and Budget.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-421 effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

§ 602. Guarantee of loans

[See main edition for text of (a) to (c)]

(d) Unpaid principal amount limitation

The aggregate unpaid principal amount of securities, obligations, leases, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $900,000,000. Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from funds made available pursuant to section

601(a)(3) or section 601(b)(1)(E) of this title. The Secretary shall prescribe and collect a reasonable annual guaranty fee.

[See main edition for text of (e) to (i)]

(As amended Pub. L. 95–421, § 2(b)(2), Oct. 5, 1978, 92 Stat. 923; Pub. L. 96–73, title I, § 122(b)(2), Sept. 29, 1979, 93 Stat. 551.)

AMENDMENTS

1979—Subsec. (d). Pub. L. 96–73 substituted "section 601(a)(3) or section 601(b)(1)(E) of this title" for "clause (3) of section 601(a) of this title".

1978—Subsec. (d). Pub. L. 95–421 substituted "clause (3)" for "clause (4)".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96–73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

GAO STUDY OF DEBT ELIMINATION; REPORT TO CONGRESS

Section 129 of Pub. L. 96–73 provided that: "Within 180 days after the effective date of this Act [see Effective Date of 1979 Amendment note set out under section 501 of this title], the Comptroller General shall submit a report to the Congress recommending appropriate means for the National Railroad Passenger Corporation to eliminate the obligations of the Corporation that are guaranteed under section 602 of the Rail Passenger Service Act [this section]. In developing such recommendations, the Comptroller General shall consider (1) the feasibility of converting such obligations into stock issued by the Corporation, (2) the likelihood of obligation retirement from profits of the Corporation, (3) the ability of the Corporation to continue to carry its debt service within the context of operating subsidies, fairly and accurately reflecting current operating costs, and (4) the extent to which debt incurred by the Corporation prior to the effective date of this Act [see Effective Date of 1979 Amendment note set out under section 501 of this title] should be recognized as unrecoverable."

SUBCHAPTER VII—EMERGENCY FINANCIAL ASSISTANCE

§ 622. Authorization of appropriations

There are hereby authorized to be appropriated such amounts not to exceed $200,000,000 as may be necessary to carry out the purposes of this subchapter. Any sums appropriated shall be available until expended.

(Pub. L. 91–518, title VII, § 702, Oct. 30, 1970, 84 Stat. 1339.)

CODIFICATION

Section is set out in this supplement to correct a typographical error appearing in the main edition.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§ 641. Repealed. Pub. L. 96–73, title I, § 111(b), Sept. 29, 1979, 93 Stat. 541

Section, Pub. L. 91–518, title VIII, § 801, Oct. 30, 1970, 84 Stat. 1339; Pub. L. 93–146, § 14, Nov. 3, 1973, 87 Stat. 554; Pub. L. 93–496, § 10, Oct. 28, 1974, 88 Stat. 1531; Pub. L. 94–555, title I, § 108, Oct. 19, 1976, 90 Stat. 2616, provided for promulgation and revision of regulations for adequacy of service and for maintenance of civil actions for enforcement of provisions.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1979, see section 501(a) of Pub. L. 96–73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 646. Railroad Safety System Program

(a) No later than January 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Rail Safety System Program for employees working on property owned by the Corporation. Such program shall be designed to serve as a model for other railroads to use in developing safety programs.

(b) The Railroad Safety System Program required under this section shall include but not be limited to—

(1) a periodic analysis of accident data, including primary and secondary causes, if known;

(2) a periodic evaluation of the activities undertaken under the Program, particularly the specific steps taken in response to accident causes;

(3) a periodic identification of the expenditures for occupational health and safety activities included in the Program;

(4) a periodic identification of the reduction of costs, fatalities, and casualties resulting from accident prevention under the Program;

(5) a periodic identification of direct accident costs, including claims arising out of such accidents; and

(6) an identification and evaluation of such other information or data as the Corporation considers necessary or appropriate.

(Pub. L. 91–518, title VIII, § 807, as added Pub. L. 95–421, § 13, Oct. 5, 1978, 92 Stat. 929.)

EFFECTIVE DATE

Section effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 502 of this title.

§ 647. Employee Compensation and Incentive Commission

(a) Membership; qualification

The Secretary shall, within 30 days after September 29, 1979, name a five-member Employee Compensation and Incentive Commission. The members of the Commission shall be selected on the basis of their knowledge of the railroad industry.

(b) Functions

The Employee Compensation and Incentive Commission shall—

(1) evaluate the salary paid officers of Amtrak in relation to Amtrak's ability to attract and maintain qualified officers; and

(2) after consultation with the Corporation and railroad labor organizations, develop a

program for improving Amtrak employee incentive and morale, including measures such as the institution of recognition and financial awards for outstanding employees.

(c) Recommendations to Board of Directors; notice to Congress

The Employee Compensation and Incentive Commission shall, no later than March 1, 1980, submit recommendations to the Board of Directors of the Corporation with respect to the matters referred to in subsection (b) of this section. The Board of Directors shall, within 90 days after the date of submission, notify the Congress of (1) any action it plans to take to implement the Commission's recommendations, and (2) any proposals for additional legislation which the board considers necessary.

(Pub. L. 91-518, title VIII, § 808, as added Pub. L. 96-73, title I, § 123, Sept. 29, 1979, 93 Stat. 551.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 648. Model Job Placement Program

Not later than October 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Job Placement Program for employees who will be affected by the reduction in work force caused by the implementation of the Secretary's recommendations for the restructuring of routes. Such program shall emphasize the facilitation of reemployment of employees dismissed or dislocated as a result of corporate restructuring. In carrying out its responsibilities under this section, the Corporation shall attempt to reduce labor protection costs and maximize utilization of the employment skills of affected employees. Such program may include job counseling, placement advertising, skills improvement courses, and such other activities as the Corporation considers appropriate to facilitate reemployment of affected employees within or outside the rail industry.

(Pub. L. 91-518, title VIII, § 809, as added Pub. L. 96-73, title I, § 124, Sept. 29, 1979, 93 Stat. 551.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 502 of this title.

§ 649. State taxation study

The Secretary shall conduct a study of the payment of taxes by the Corporation to State and local governments, including the payment of property taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other user fees, and any other taxes paid by the Corporation to such governments, and shall make recommendations to the Congress no later than January 1, 1980, concerning the advisability of relieving the Corporation, either in whole or in part, of its obligation to make such payments. In conducting such study, the Secretary shall consider—

(1) the requirement that the Corporation be operated and managed as a for-profit corporation;

(2) the certainty that the Corporation will need substantial Federal subsidies for the foreseeable future;

(3) the demand by States and localities for continued and increased federally funded rail passenger service;

(4) the benefit to States and localities of rail passenger service directly funded by the Federal Government; and

(5) the importance to the Nation of maintaining an efficient and reliable national rail transportation system.

(Pub. L. 91-518, title VIII, § 810, as added Pub. L. 96-73, title I, § 125, Sept. 29, 1979, 93 Stat. 552.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 650. Revenue report

Within 60 days of the end of each fiscal year beginning with fiscal year 1981, the Corporation shall report to the Congress on the ratio of revenue to operating expenses on all routes in the basic system. As part of such report, the Corporation shall specifically identify those train routes which did not achieve a 50 percent revenue-to-expense ratio, and the Corporation shall include statements explaining the reasons which prevented such ratios from being achieved.

(Pub. L. 91-518, title VIII, § 811, as added Pub. L. 96-73, title I, § 126, Sept. 29, 1979, 93 Stat. 552.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

CHAPTER 15—EMERGENCY RAIL SERVICES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 906, 922 of this title.

§ 661. Definitions

REFERENCES IN TEXT

The Bankruptcy Act, referred to in par. (4), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

CODIFICATION

Part I of the Interstate Commerce Act (49 U.S.C. 1-27), referred to in par. (3), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter

I (§ 10501 et seq.) of chapter 105 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Tables at the beginning of Title 49.

§ 662. Guarantee of certificates

(a) Authority of Secretary; prerequisites; procedures waiver

The trustees of any railroad undergoing reorganization under section 77 of the Bankruptcy Act, as amended (11 U.S.C. 205), upon approval of the court, may apply to the Secretary for the guarantee of certificates. The Secretary, after consultation with the Commission, is authorized to guarantee such certificates upon findings in writing that—

[*See main edition for text of (1) to (6)*]

The Secretary shall publish notice of his intention to make such finding in the Federal Register not less than fifteen days prior to such finding, give interested persons, including agencies of the Federal Government, an opportunity to submit written data, views, or arguments (with or without opportunity for oral presentation), and give consideration to the relevant matter presented. The Secretary for good cause shown and upon a finding that extraordinary circumstances warrant doing so may waive the requirements of the preceding sentence. Notwithstanding any other provision of this section, the Secretary, in guaranteeing certificates under this section, is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection.

[*See main edition for text of (b)*]

(c) Certificate as administrative expense; priority of certificate

The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.

[*See main edition for text of (d)*]

(e) Maximum aggregate principal amount outstanding

At any one time the outstanding aggregate principal amount of all certificates guaranteed under this chapter shall not exceed $200,000,000.

[*See main edition for text of (f)*]

(As amended Pub. L. 95-598, title III, § 333, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 95-611, § 3(b), Nov. 8, 1978, 92 Stat. 3089; Pub. L. 96-86, § 115(a), Oct. 12, 1979, 93 Stat. 662; Pub. L. 96-101, § 7(a)-(c), Nov. 4, 1979, 93 Stat. 739, 740.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsecs. (a) and (c), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

CODIFICATION

Section 5 of the Interstate Commerce Act [49 U.S.C. 5], referred to in subsec. (b)(4), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter III (§ 11341 et seq.) of chapter 113 of Title 49.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-101, § 7(a), struck out "upon a finding that the guarantee of certificates is necessary in order for a railroad which has received continued loan advances, pursuant to section 721(d)(1) of this title, to maintain rail services in the region (as such term is defined in section 702(15) of this title)" following "of this subsection" and provision requiring that the Secretary not make any waiver under the preceding sentence after Dec. 31, 1979.

Subsec. (c). Pub. L. 96-101, § 7(b), added subsec. (c). Former subsec. (c) was repealed by Pub. L. 95-598. See 1978 Amendment note below.

Subsec. (e). Pub. L. 96-101, § 7(c), substituted "$200,000,000" for "$125,000,000" and struck out provision requiring that with respect to a railroad which filed a petition for reorganization during fiscal year 1978, during the period Oct. 1, 1979, through Nov. 30, 1979, certificates be issued without regard to the limitations of subsec. (a) of this section and with such priority in payment as the Secretary deems appropriate to secure repayment, for the purpose of continuing service on the railroad system at the level in effect on Oct. 1, 1979.

Pub. L. 96-86 provided that, with respect to a railroad which filed a petition for reorganization during fiscal year 1978, during the period Oct. 1, 1979, through Nov. 30, 1979, certificates shall oe issued without regard to the limitations of subsec. (a) of this section and with such priority in payment as the Secretary deems appropriate to secure repayment, for the purpose of continuing service on the railroad system at the level in effect on Oct. 1, 1979.

1978—Subsec. (a). Pub. L. 95-611 added provision authorizing the Secretary to waive requirements of paragraphs (1), (5), and (6) of subsec. (a) until Dec. 31, 1979.

Subsec. (c). Pub. L. 95-598 struck out subsec. (c) relating to treatment of a certificate as an administrative expense and priority of the certificate.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 666, 906 of this title.

§ 666. Court supervision of expenditures; findings; report to Secretary

REFERENCES IN TEXT

The Bankruptcy Act, referred to in text, is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

CHAPTER 16—REGIONAL RAIL REORGANIZATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 562, 802, 823, 824, 851, 854 of this title; title 49 section 10362.

SUBCHAPTER I—GENERAL PROVISIONS

§ 701. Congressional declaration of policy

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (a)(1), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-565, § 1, Nov. 1, 1978, 92 Stat. 2397 provided: "That this Act [amending sections 726, 747, and 825 of this title and section 975 of Title 43, Public Lands, and enacting provision set out as a note under section 975 of Title 43] may be cited as the 'United States Railway Association Amendments Act of 1978'."

§ 702. Definitions

REFERENCES IN TEXT

Section 205 of title 11, referred to in par. (14), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

CODIFICATION

Section 715 of this title, referred to in par. (10), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter IV (§ 10361 et seq.) of chapter 103 of Title 49.

Section 1(3) of title 49, referred to in par. (13), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1979, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, and is now covered by section 10102 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 621 of this title; title 19 section 2373; title 26 section 374; title 49 section 1613.

SUBCHAPTER II—UNITED STATES RAILWAY ASSOCIATION

§ 711. Formation and structure

[*See main edition for text of* (a) *to* (d)]

(e) Terms of office

The terms of office of the nongovernment members of the Board of Directors of the Association first taking office shall expire as designated by the President at the time of nomination—two at the end of the second year; two at the end of the fourth year; and three at the end of the sixth year. The term of office of the Chairman of such Board shall be 6 years. Successors to members of such Board shall be appointed in the same manner as the original members and, except in the case of government members, shall have terms of office expiring 6 years from the date of the expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors have been appointed and qualified.

[*See main edition for text of* (f) *to* (k)]

(As amended Pub. L. 95-611, § 2, Nov. 8, 1978, 92 Stat. 3089.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-611 added provision that members of the Board shall continue to serve until their successors have been appointed and qualified.

§ 712. General powers and duties of the Association

(a) General

To carry out the purposes of this chapter, the Association is authorized to—

[*See main edition for text of* (1) *to* (6)]

(7) consult with the Secretary of the Army and the Chief of Engineers and request the assistance of the Corps of Engineers, and the Secretary of the Army may direct the Corps of Engineers to cooperate fully with the Association, the Corporation, or any entity designated in accordance with section 716(c)(1)(C) of this title in order to carry out the purposes of this chapter;

[*See main edition for text of* (a)(8) *to* (d)]

(e) Reports

The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Association during the preceding fiscal year. Each such report shall include (A) the Association's statement of specific and detailed objectives for the activities and programs conducted and assisted under this chapter; (B) statements of the Association's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this chapter, measured through the end of the preceding fiscal year; (C) recommendations with respect to any legislation or administrative action which the Association deems necessary or desirable; (D) a statistical compilation of the obligations issued, certificates of value issued, securities purchased, and loans made under this chapter; (E) a summary of outstanding problems confronting the Association, in order of priority; (F) all other information required to be submitted to the Congress pursuant to any other provision of this chapter; and (G) the Association's projections and plans for its activities and programs during the next fiscal year.

(2)[1] For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Association shall transmit to the Congress and the President, not later than 30 days after the end of each quarter of such fiscal year, a comprehensive and detailed report on all expenditures and use of funds during the preceding fiscal quarter, including an assessment of the status of projects for such preceding fiscal quarter and a projection of activities proposed for the next fiscal quarter.

(3) The Association shall transmit to the Congress, no later than 30 days after the end of each fiscal quarter, a report with respect to the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 743 of this title. Each such report shall include—

(A) a detailed accounting of the Federal funds expended during such quarter in connection with such proceedings, and the purposes for which such funds were expended;

(B) an explanation of the status of such proceedings, including the prospects for settlement or conclusion; and

(C) an identification of which responsibilities in connection with such proceedings are being carried out directly by the Association, and which are being carried out by contract with private organizations.

[*See main edition for text of (f) and (g)*]

(h) Transfer of litigation

No later than March 1, 1980, the Association and the Attorney General of the United States shall develop and submit to the Congress a feasibility study for the transfer, to the appropriate department or agency of the Federal Government, of all responsibility for representing the United States in the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 743 of this title.

(i) Transfer of other functions

No later than March 1, 1980, the Association and the Secretary of Transportation shall develop and submit to the Congress a feasibility study for the transfer of all functions of the Association, other than those referred to in subsection (h) of this section, to the appropriate department or agency of the Federal Government, including the abolition of those functions which will no longer be necessary.

(j) Monitoring of contractors

The Board of Directors of the Association shall adopt procedures to insure (1) that contractors, including law firms, provide reports containing written verification of tasks assigned, work performed, time worked, and costs incurred, including periodic status reports on work performed, (2) that such reports are audited by the Association, (3) that no funds are paid to contractors without written reports complying with the requirements of this subsection, and (4) that the Association applies such procedures uniformly to all contractors.

[1] So in original. Subsec. contains no par. designated as "(1)".

(As amended Pub. L. 95-199, § 2, Nov. 23, 1977, 91 Stat. 1423; Pub. L. 96-73, title II, §§ 202, 203, Sept. 29, 1979, 93 Stat. 555.)

REFERENCES IN TEXT

Section 763 of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

CODIFICATION

Section 715 of this title, referred to in subsec. (b)(4), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter IV (§ 10361 et seq.) of chapter 103 of Title 49.

Subsec. (a)(7) is set out in this supplement to correct typographical error appearing in the main edition.

AMENDMENTS

1979—Subsec. (e)(3). Pub. L. 96-73, § 202, added par. (3).

Subsecs. (h) to (j). Pub. L. 96-73, § 203, added subsecs. (h) to (j).

1977—Subsec. (e). Pub. L. 95-199 in subsec. catchline substituted "Reports" for "Annual report", in first par. redesignated cls. (1) through (7) as cls. (A) through (G), and added par. (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under 501 of this title.

§ 715. Repealed. Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466

Section, Pub. L. 93-236, title II, § 205, Jan. 2, 1974, 87 Stat. 993, Pub. L. 94-5, § 3, Feb. 28, 1975, 89 Stat. 7; Pub. L. 94-210, title III, § 309, Feb. 5, 1976, 90 Stat. 57, established the Rail Services Planning Office. See section 10361 et seq. of Title 49, Transportation.

§ 716. Final system plan

[*See main edition for text of (a) to (c)*]

(d) Transfers

All transfers or conveyances pursuant to the final system plan shall be made in accordance with, and subject to, the following principles:

[*See main edition for text of (1) to (4)*]

(5) All properties—

[*See main edition for text of (A) and (B)*]

(C) transferred by the Corporation to any State, local or regional transportation authority, or the National Railroad Passenger Corporation, within 3 years after the date of conveyance, pursuant to section 743(b)(1) of this title, to meet the needs of commuter or intercity rail passenger service,

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) or (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation

has not been released from the obligation to pay for such improvements) and the cost to the Corporation of transferring such properties. The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 743 of this title to meet the needs of commuter or intercity rail passenger service or for purposes of providing rail marine freight floating service, except as otherwise provided with respect to the Corporation pursuant to section 743(c)(2) of this title.

[*See main edition for text of* (6) *and* (7); (e) *to* (j)]

(As amended Pub. L. 95-611, § 4(a), Nov. 8, 1978, 92 Stat. 3090.)

REFERENCES IN TEXT

Sections 762 and 763 of this title, referred to in subsec. (g), were repealed by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

CODIFICATION

Section 5 of title 49, referred to in subsec. (d)(3), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter III (§ 11341 et seq.) of chapter 113 of Title 49.

AMENDMENTS

1978—Subsec. (d)(5)(C). Pub. L. 95-611 substituted 3 years for 900 days.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 4(b) of Pub. L. 95-611 provided that: "The amendment made by this Act [probably meaning this section 4, which amended section 716 of this title] shall be effective on January 2, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 712, 717, 718, 725, 743, 744, 745, 747, 771, 774, 778, 791, 831, 851, 854 of this title.

§ 717. Adoption of final system plan

REFERENCES IN TEXT

Section 715(d)(1) of this title, referred to in subsec. (b)(1), is a reference to section 715(d)(1) prior to amendment by Pub. L. 94-210. Section 715 was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter IV (10361 et seq.) of chapter 103 of Title 49.

Section 205 of title 11, referred to in subsec. (b)(1) and (2), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 716, 721, 774 of this title; title 49 section 1654.

§ 719. Judicial review

[*See main edition for text of* (a) *to* (g)]

(h) Special masters

(1) The special court may appoint and fix the compensation and assign the duties of such special masters as it considers necessary or appropriate to conduct hearings, receive evidence and report thereon to the special court, and perform such other acts as the special court may require. The special court may employ such special masters by contract or otherwise, without regard to section 5 of title 41 or part III of title 5, on such terms and conditions as it may determine. Such special masters shall not be deemed to be employees of the Federal Government or any department, agency, or instrumentality thereof. The special court may also appoint employees in such number as may be approved by the Director of the Administrative Office of the United States Courts, and may procure such administrative services as may be necessary for it or the special masters to complete their assignments expeditiously.

(2) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection. Sums appropriated under this subsection are authorized to remain available until expended.

(As amended Pub. L. 95-199, § 3, Nov. 23, 1977, 91 Stat. 1423.)

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (b), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-199 added subsec. (h).

§ 721. Loans

[*See main edition for text of* (a) *to* (c)]

(d) Modifications

The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon agreement of the recipient of the loan and upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section. Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association may, upon the request of such railroad—

(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of November 8, 1978, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has

been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this chapter, to be desirable; and

(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of $250,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.

[*See main edition for text of* (e) *to* (g)]

(h) Loans for payment of obligations

(1)(A) The Association is authorized, subject to the limitations set forth in section 720(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, $350,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 743(b)(1) of this title, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

[*See main edition for text of* (i) *to* (vii)]

(viii) amounts required to provide adequate funding for continuation, by the Corporation, of medical and life insurance coverage and benefits for retired employees of railroads in reorganization as required and limited by section 743(b)(6)(B) of this title.

[*See main edition of text of* (ix) *and* (x), (B), (2) *to* (5)]

(6)(A) Notwithstanding any other provision of this subsection, the Association shall forgive any loan made to the Corporation or the National Railroad Passenger Corporation pursuant to this subsection, plus accrued interest thereon, on the 3rd anniversary date of any such loan, except that the Association shall not forgive any loan or portion thereof, in accordance with this paragraph, if—

(i) the Finance Committee makes an affirmative finding, with respect to such loan or portion thereof, that—

(I) the Corporation has not exercised due diligence in executing the procedures adopted pursuant to paragraph (1)(B)(v) of this subsection, and

(II) the failure of the Association to forgive such loan or portion thereof will not adversely affect the ability of the Corporation to become financially self-sustaining;

(ii) the Finance Committee so directs the Association; and

(iii) neither House of the Congress disapproves such affirmative finding and direction, in accordance with the following provisions of this paragraph.

A copy of each such finding, the reasons therefor, and such direction made by the Finance Committee, together with the comments and recommendations thereon of the Board of Directors of the Association, shall be transmitted to the Congress by the Association within 10 days after the date on which the Finance Committee makes such finding and direction, or if not so transmitted, shall be transmitted by the Finance Committee. Each such finding and direction so transmitted shall become effective immediately, and shall remain in effect, unless, within the first period of 30 calendar days of continuous session of Congress after the date of transmittal of such finding and direction to Congress, either House of Congress disapproves such finding and direction in accordance with the procedures specified in section 1407 of title 31. For purposes of this paragraph, continuity of session of Congress is broken only in the circumstances described in section 1401(5) of title 31.

(B) The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization whose obligations were paid with the proceeds of loans forgiven under this paragraph, equal to the amount by which the loans, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counterclaim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States. The direct claim of the Association under this paragraph shall be prior to all other administrative claims of the estate of the railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates.

[*See main edition for text of* (7); (i)]

(As amended Pub. L. 95–611, § 3(a), Nov. 8, 1978, 92 Stat. 3089; Pub. L. 96–73, title II, § 204(b), Sept. 29, 1979, 93 Stat. 556; Pub. L. 96–101, § 23, Nov. 4, 1979, 93 Stat. 746.)

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsecs. (a) and (h)(3)(B), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally

to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

Section 763 of this title, referred to in subsec. (a), was repealed by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

AMENDMENTS

1979—Subsec. (d)(2). Pub. L. 96-101 substituted "$4,000,000" for "$2,000,000", "and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association" for "and such railroad has in effect an employee stock ownership plan which has been approved by the Association", and "December 31, 1980" for "December 31, 1979" and added provision requiring that any such approval be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of $250,000.

Subsec. (h)(1)(A)(viii). Pub. L. 96-73, § 204(b)(1), substituted "funding for continuation, by the Corporation, of medical and life insurance coverage and benefits for retired employees of railroads in reorganization as required and limited by section 743(b)(6)(B) of this title" for "funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 743(b)(1) of this title, and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization".

Subsec. (h)(6). Pub. L. 96-73, § 204(b)(2)(A) to (C), redesignated existing provisions as subpar. (A), and in subpar. (A) as so redesignated, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, and former cls. (i) and (ii) of former subpar. (A) as subcls. (I) and (II) of cl. (i), respectively, and added subpar. (B).

1978—Subsec. (d). Pub. L. 95-611 added provision authorizing the increase of loans to railroads until Dec. 31, 1979.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment of subsec. (h)(1)(A)(viii) and (6) of this section by Pub. L. 96-73 effective Nov. 4, 1978, see section 501(b) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 743 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 712, 720, 726, 743, 774 of this title.

§ 724. Authorization of appropriations

[*See main edition for text of (a) and (b)*]

(c) Association

For the fiscal year ending September 30, 1980, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this chapter such sums as are necessary, not to exceed $28,500,000. Sums appropriated under this subsection are authorized to remain available until expended.

(As amended Pub. L. 95-199, § 1, Nov. 23, 1977, 91 Stat. 1423; Pub. L. 95-611, § 1, Nov. 8, 1978, 92 Stat. 3089; Pub. L. 96-73, title II, § 201, Sept. 29, 1979, 93 Stat. 555.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-73 substituted appropriations authorization of $28,500,000 for fiscal year ending Sept. 30, 1980 for $27,200,000 for fiscal year ending Sept. 30, 1979.

1978—Subsec. (c). Pub. L. 95-611 substituted provision authorizing appropriations of $27,200,000 for fiscal year ending Sept. 30, 1979, to remain available until expended, for provision authorizing appropriations of $23,000,000 for fiscal year ending Sept. 30, 1978, to remain available until Sept. 30, 1979.

1977—Subsec. (c). Pub. L. 95-199 substituted provisions authorizing appropriations for the fiscal year ending Sept. 30, 1978, of not to exceed $23,000,000 and authorizing availability of sums to Sept. 30, 1979, for provisions authorizing appropriations for the period beginning May 1, 1976, and ending Sept. 30, 1977, of not to exceed $20,000,000 and authorizing availability of sums to Sept. 30, 1978.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 726. Debentures and series A preferred stock

(a) General

The Association is authorized, in accordance with the provisions of this section, and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to $1,000,000,000 of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to $2,300,000,000 of the series A preferred stock of the Corporation.

(b) Purposes and procedure for investment

[*See main edition for text of (1)*]

(2) Purchases of up to $1,000,000,000 of debentures and, thereafter, of up to $2,300,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation, unless the Finance Committee makes an affirmative finding that—

[*See main edition for text of (A) to (C); (c) to (e)*]

(f) Employee stock ownership plan

(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied.

(2) The employee stock ownership plan shall:

(A) provide:

(i) for a transfer to the plan and allocation to the accounts of plan participants in periodic installments of Series A preferred stock of the Corporation with a stated redemption value of at least $345,000,000 or any other securities in an amount determined by the Association, with the concurrence of the Finance Committee, as constituting a meaningful interest in the Corporation, or any combination thereof so deter-

mined by the Association, with the concurrence of the Finance Committee. The use of Series A preferred stock to fund the Employee Stock Ownership Plan shall not be interpreted to relieve ConRail of the responsibility for repaying in full to the United States Railway Association its indebtedness as represented by all shares originally issued under Public Law 94-210 and this chapter;

(ii) for immediate vesting of the rights of participants to such securities upon allocation, subject to defeasance as a result of the plan's termination which termination shall occur in the event that, by the end of the 120th month beginning after the month in which securities or interests therein are first allocated to participants' accounts, the Corporation has not attained for two consecutive quarters positive net income and a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I railroads in 1977, as determined pursuant to procedures adopted by the Corporation pursuant to regulations promulgated by the Association with the concurrence of the Finance Committee;

(B) be an employee benefit plan which is designed to invest primarily in employer securities;

(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of title 26) as the Secretary of the Treasury or his delegate may describe;

(D) have been approved by the Board of Directors of the Corporation to the extent and in the manner which may be required by the Corporation's articles of incorporation and bylaws then in effect; and

(E) have been prepared in consultation with, and been approved by, the Association and the Finance Committee.

(3) Notwithstanding any other provision of law, if a plan does not meet the requirements of section 401 of title 26—

(A) stock transferred under paragraph (2) and allocated to the account of any participant under paragraph (2) shall not be considered income of the participant or his beneficiary under title 26 until such stock or dividends are actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of title 26 (treating the participant or his beneficiary as having a basis of 0 in the stock);

(B) no amount shall be allocated to any participant under the plan in excess of the amount which might be allocated if the plan met the requirements of section 401 of title 26; and

(C) the plan must meet the requirements of sections 410 and 415 of title 26.

(4) The Corporation shall adopt such terms and conditions governing the securities of interests therein to be transferred to the plan (including limitations on voting rights) as the Association, with the concurrence of the Finance Committee, determines are necessary to protect reasonably the interests of the United States in the litigation pursuant to section 743(c) of this title and in the event of any action to further reorganize or restructure the Corporation's assets or capital structure.

(5) The Corporation, the Association, and a representative appointed by the Chairman of the Railway Labor Executives' Association as representative of all the classes or crafts of employees of the Corporation shall engage in negotiations to agree upon a plan in accordance with the provisions of this subsection. The parties shall incorporate their agreement into a written plan instrument specifying the terms and conditions set forth in this subsection and such other terms and conditions as they may decide upon, with the concurrence of the Finance Committee, unless the parties are unable to reach on an agreement on the plan following the exertion of every reasonable effort to do so, in accordance with the Railway Labor Act [45 U.S.C. 151 et seq.], in which event, the Corporation and the Association, with the concurrence of the Finance Committee, shall establish a written plan with such terms and conditions as they may agree upon in accordance with this subsection. Within one year after November 1, 1978, the Corporation shall transmit a draft of such plan to the Congress and shall report on its progress in establishing and administering the plan. The report shall include recommendations of contractual and statutory provisions necessary to reasonably (A) exempt any Trustee of the plan, the Corporation, the Association, any member of the Finance Committee, and any other person from any fiduciary duty, responsibility or liability for the acquisition of, investment in, or retention of any security or interest therein of the Corporation or for any other transaction contemplated by this subsection and (B) provide for the United States to indemnify, defend, and hold harmless such persons against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses actually incurred in connection with any matter so exempted in which it is determined that such persons were acting in good faith and in a manner they believed to not be opposed to the best interests of the plan.

(6) Within fourteen months of November 1, 1978, the Association shall report to the Congress on the draft plan and on any legal obstacle to the ability of the Corporation to effectuate and implement an employee stock ownership plan of the nature contemplated by this subsection, including specific recommendations on amendments to this subsection and other relevant laws which would harmonize the requirements of this subsection with those other laws. The Department of Transportation and the Department of the Treasury, as each finds appropriate, shall provide separate comments to the Association for inclusion with such report.

(7) For the purposes of this subsection, the officers of each duly authorized representative of the crafts or classes of the employees of the Corporation who have been given leaves of absence by the Corporation to serve as such officers, are to be eligible to participate in such

plan on the same basis as are employees whose employment is governed by a collective bargaining agreement with the Corporation.

(g) Authorization of appropriations

There is authorized to be appropriated to the Association $3,300,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.

(As amended Pub. L. 95-565, §§ 2, 3, Nov. 1, 1978, 92 Stat. 2397.)

REFERENCES IN TEXT

The Regional Rail Reorganization Act Amendments of 1978, referred to in subsec. (f)(1), probably means Pub. L. 95-565, Nov. 1, 1978, 92 Stat. 2397, as amended, known as the United States Railway Association Amendments Act of 1978, which amended sections 726, 747, and 825 of this title and section 975 of Title 43, Public Lands, and enacted a provision set out as a note under section 975 of Title 43. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 701 of this title and Tables.

Public Law 94-210, referred to in subsec. (f)(2)(A), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended, known as the Railroad Revitalization and Regulatory Reform Act of 1976. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Railway Labor Act, referred to in subsec. (f)(5), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see section 151 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-565, § 2(a), substituted "$2,300,000,000" for "$1,100,000,000".

Subsec. (b)(2). Pub. L. 95-565, § 2(b), substituted "$2,300,000,000" for "$1,100,000,000".

Subsec. (f). Pub. L. 95-565, § 3, added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-565, §§ 2(c), 3, redesignated former subsec. (f) as (g) and, as so redesignated, substituted "$3,300,000,000" for "$2,100,000,000".

SUBCHAPTER III—CONSOLIDATED RAIL CORPORATION

§ 741. Formation and structure

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Section 1(3) of the Act is now covered by section 10102 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 743. Valuation and conveyance of rail properties

[See main edition for text of (a)]

(b) Conveyance of rail properties

[See main edition for text of (1) to (5)]

(6)(A) Notwithstanding anything to the contrary contained in this chapter or any other[1] provision of law, the special court shall include in its order such further directions as may be necessary to assure (i) that the operation and administration of the employee pension benefit plans described in section 775(a) of this title shall be continued, without termination or interruption, by the Corporation until such time as the Corporation elects to amend or terminate any such plan, in whole or in part; and (ii) that appropriate transfers and assignments with respect to all rights and obligations relating to such plans shall be made to the Corporation for such purposes, without prejudice to payment of consideration for whatever rights any railroad in reorganization may have in any residual assets under any such employee pension benefit plan. No court shall enter any judgment against the Corporation with respect to any such rights, except that the special court may enter such a judgment in an order issued by it pursuant to subsection (c) of this section, after taking into consideration the rights and obligations transferred pursuant to this paragraph. All liabilities as an employer shall be imposed solely upon the railroad in reorganization in the event such plan is terminated, in whole or in part, by the Corporation within 1 year after the date of such transfer or assignment (except liabilities as an employer under the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] for benefits accruing during such period), except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1301 et seq.], the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 721(h) of this title in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 721(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.

(B) The Corporation shall, through the purchase of insurance or otherwise, maintain in effect any medical insurance coverage or so much of any life insurance coverage that does not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower, which coverage was maintained by a railroad in reorganization in the region immediately prior to April 1, 1976, and which provides insurance benefits to employees who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such employee

[1] So in original.

whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

(i) through the purchase of insurance or otherwise, provide medical insurance benefits or life insurance benefits at the same level as were provided by the employer railroad in reorganization and in effect with respect to such employees immediately prior to April 1, 1976, except that the life insurance benefits so provided shall not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower; and

(ii) assume and pay any claim for such employee (or his personal representative) for any such insurance benefits, if—

(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph;

(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period,

except that such death benefits shall not be paid for any such employee in excess of an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower.

The Corporation shall be entitled to a loan pursuant to section 721(h) of this title in an amount required for the payment of insurance premiums and benefits described in this subparagraph. For purposes of section 721(h)(4)(A)(iii) of this title, amounts required for the payment of such premiums and benefits shall be deemed to be valid administrative claims against the respective estates of the railroads in reorganization, due and payable as of April 1, 1976, or, in the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of such date, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4) and (5) of such section 721(h) of this title. As used in this subparagraph, the term "railroad in reorganization" includes any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance.

[*See main edition for text of* (c)]

(d) Appeal

A finding or determination entered by the special court pursuant to subsection (c) of this section or section 746 of this title may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28: *Provided*, That such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after such finding or determination is entered by the special court. The Supreme Court shall dismiss any such appeal within 7 days after the entry of such an appeal if it determines that such an appeal would not be in the interest of an expeditious conclusion of the proceedings and shall grant the highest priority to the determination of any such appeals which it determines not to dismiss.

[*See main edition for text of* (e)]

(As amended Pub. L. 95-199, § 4, Nov. 23, 1977, 91 Stat. 1424; Pub. L. 95-597, § 1, Nov. 4, 1978, 92 Stat. 2547; Pub. L. 96-73, title II, § 204(a), Sept. 29, 1979, 93 Stat. 556.)

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsecs. (b)(3)(B) and (c)(1)(A)(ii), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

AMENDMENTS

1979—Subsec. (b)(6)(B). Pub. L. 96-73 inserted provisions which limited coverage to amount that does not exceed in death benefits amount equal to twice the employee's annual salary at time of retirement or $60,000, whichever is lower, provided for maintenance of regional coverage, and in cases of lapsed coverage due to nonpayment of premiums prescribed the same limitation for claims arising during the lapsed period or thereafter.

1978—Subsec. (b)(6). Pub. L. 95-597 redesignated existing provisions as subpar. (A) and in subpar. (A), as so redesignated, redesignated clauses (A) and (B) as (i) and (ii), respectively, and added subpar. (B).

1977—Subsec. (d). Pub. L. 95-199 substituted "entered by the special court pursuant to subsection (c) of this section or section 746 of this title" for "entered pursuant to subsection (c) of this section"

EFFECTIVE DATE OF 1979 AMENDMENT

Section 501(b) of Pub. L. 96-73 provided that: "The amendments made by section 204 of this Act [to subsec. (b)(6)(B) of this section and section 721(h)(1)(A)(viii), (6) of this title] shall be effective as of the date of enactment [Nov. 4, 1978] of Pub. L. 95-597."

ADMINISTRATIVE CLAIM STATUS

Section 2 of Pub. L. 95-597 provided that: "The conferring of administrative claim status on amounts paid for the insurance premiums and benefits described in the amendment made by the first section of this Act [amending this section] shall be effective solely for purposes of meeting the conditions set forth in section 211(h)(4)(A)(iii) of the Regional Rail Reorganization Act of 1973 [section 721(h)(4)(A)(iii) of this title] with respect to which obligations of the estate of a railroad in reorganization may be paid pursuant to such section 211(h) [section 721(h) of this title], and shall not be construed—

"(1) as affecting the jurisdiction of the district court having jurisdiction over such a railroad in reorganization to determine whether such insurance premiums and benefits constitute enforceable contractual obligations of the estate of such a railroad for purposes of reimbursement under such section 211(h) [section 721(h) of this title]; or

"(2) as establishing or reordering any priority which a claim against the estate of such a railroad for reimbursement for the amounts paid for such in-

surance premiums and benefits may or may not have under the provisions of the Bankruptcy Act [section 1 et seq. of former Title 11, Bankruptcy] or any other law."

CORPORATION AS SUCCESSOR IN INTEREST

Section 3 of Pub. L. 95-597 provided that: "Notwithstanding any other provision of law, any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act [section 205 of former Title 11, Bankruptcy], is the successor in interest to a railroad in reorganization shall have standing to assert, in any judicial or administrative proceeding, any claim or defense available to such railroad in reorganization with respect to whether the insurance benefits and premiums described in the amendment made by the first section of this Act [amending this section] constitute enforceable contractual obligations of the estate of such railroad in reorganization. For purposes of this section, the term 'railroad in reorganization' has the meaning given such term in paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973 [section 702(14) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 712, 716, 719, 721, 724, 725, 726, 741, 744, 745, 746, 772, 774, 775, 778, 791, 851, 854 of this title; title 26 section 374; title 49 sections 1613, 1654.

§ 744. Termination and continuation of rail services

(a) Discontinuance

[*See main edition for text of (1)*]

(2) [*See main edition for text of (A)*]

(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 10362(b)(6) of title 49.

[*See main edition for text of (C) and (D)*]

(b) Abandonment

[*See main edition for text of (1) and (2)*]

(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of subtitle IV of title 49, the constitution or law of any State, or the decision of any court or administrative agency of the United States or of any State.

[*See main edition for text of (c)*]

(d) Rail freight service

[*See main edition for text of (1)*]

(2) The trustees of a railroad in reorganization shall permit rail service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable return on the value of such properties, as determined in accordance with the standards developed pursuant to section 10362(b)(6) of title 49.

(3) If necessary to prevent any disruption or loss of rail service, at any time after the date of conveyance, pursuant to section 743(b)(1) of this title, the Commission—

[*See main edition for text of (A)*]

(B) shall have authority, in accordance with the provisions of section 11125 of title 49, to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the standards developed pursuant to section 10362(b)(6) of title 49. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.

(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after October 19, 1976—

(A) pursuant to this section; or

(B) pursuant to section 762 of this title or section 1613 of title 49,

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this chapter.

(e) Rail passenger service

[*See main edition for text of (1) to (3)*]

(4) If a State (or a local or regional transportation authority)—

(A) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49, for the operation of rail passenger service after the 180-day mandatory operation period, and

(B) provides compensation, pursuant to paragraph (2) of this subsection, for operations conducted during the 180-day mandatory operation period; or

(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 10362(b)(5) of title 49, for the operation of rail passenger service provided under an agreement or lease pursuant to section 743(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall

not be eligible for assistance under section 1613(a)(2) of title 49,

the Corporation (or a profitable railroad) shall continue to provide such service after the end of such period, except as otherwise provided in this subsection.

(5)(A) The Secretary shall reimburse the Corporation (or a profitable railroad) for any loss which is incurred by it during the 180-day mandatory operation period specified in paragraph (1) of this subsection which is not compensated for by a State (or a local or regional transportation authority). The amount of such reimbursement shall be determined pursuant to section 1613(a)(1) of title 49 and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49.

(B) The Secretary shall reimburse States, local public bodies, and agencies thereof for additional costs incurred by such States, bodies, and agencies for rail service continuation payments for rail passenger service pursuant to section 1613(a)(2) of title 49 and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49.

[*See main edition for text of* (C) *and* (D), (6)]

(7)(A) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 716(c)(1)(C) and 716(c)(1)(D) of this title and to the Corporation pursuant to section 743(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

(B) As used in this paragraph, the term "additional rail passenger service" means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 743(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this chapter, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

(8) Omitted

[*See main edition for text of* (f)]

(g) Abandonment by corporation

After the rail system to be operated by the Corporation or a subsidiary thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or a subsidiary thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or a subsidiary thereof can demonstrate that no State (or local or regional transportation authority) is willing to offer a rail service continuation payment pursuant to subsection (c) of this section. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of subtitle IV of title 49.

[*See main edition for text of* (h) *and* (i)]

(j) Repealed. Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466

(As amended Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466; Pub. L. 95–607, title II, § 201, Nov. 8, 1978, 92 Stat. 3064.)

REFERENCES IN TEXT

Section 762 of this title, referred to in subsec. (d)(4)(B), was repealed by Pub. L. 94–210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

Section 205 of title 11, referred to in subsec. (i)(2), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

CODIFICATION

In subsecs. (a)(2)(B), (d)(2) and concluding par., (e)(4)(A) and (C), (e)(5)(A) and (B), and (e)(7)(A), reference to "section 10362(b)(5) of title 49" and "section 10362(b)(6) of title 49" were substituted for "section 715(d)(5) of this title" and "section 715(d)(6) of this title", respectively, on authority of section 3(b) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation.

In subsecs. (b)(3), (d)(3)(B), and (g), reference to "subtitle IV of title 49" and "section 11125 of title 49" were substituted for "the Interstate Commerce Act [49 U.S.C. 1 et seq.]" and "section 1(16)(b) of the Interstate Commerce Act [49 U.S.C. 1(16)(b)]", respectively, on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49.

Subsec. (d)(4) is set out in this supplement to correct typographical error appearing in the main edition.

Subsec. (e)(8), which provided that the Secretary, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons and property, resulting from the operation of rail passenger service required pursuant to subsec. (e) of this section or section 743(b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State, local, or regional transportation authority, which study was to identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self-insurance through passenger tax or other mechanism, or government indemnification for such liabilities, and within one year after Nov. 8, 1978, the Secretary prepare a report, which report was to specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which prevents the cross-subsidization of passenger services with revenues from freight services operated by the Corporation, and to submit this report to Congress, was omitted from the Code as executed.

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-607 added subpar. (C) of par. (4) and pars. (7) and (8).

Subsec. (j). Pub. L. 95-473 struck out subsec. (j) which had provided for exempt rail mass transportation not under the jurisdiction of the Interstate Commerce Commission. See section 10504 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 742 of this title; title 49 sections 1613, 10362.

§ 745. Continuing reorganization; supplemental transactions

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (e), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

§ 746. Certificate of value

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 712, 743 of this title; title 26 section 374.

§ 747. Protection of Federal funds

[*See main edition for text of (a) and (b)*]

(c) Monitoring of the corporation

(1) The Association shall also report to the Congress, in accordance with this subsection, on the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

(2) Within 90 days after November 1, 1978, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C)(i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90-day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purpose of this subchapter.

(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or group of parts contributes to profits or losses, (C) the efforts of management to contain or reduce the contribution of such part or group of parts to losses, (D) the results of such efforts, and (E) such other information as the Association deems necessary or appropriate.

(4) The Association shall (A) transmit to the Congress the first such monitoring report pursuant to paragraph (3) at the end of the first calendar quarter which begins after the end of the 90-day period for preparation and submission of the methodological information pursuant to paragraph (2), (B) report such monitoring information to the Congress at the end of the first quarter of each calendar year thereafter, (C) update methodological and monitoring information periodically as the Association deems necessary or appropriate, but in no case less frequently than once a year, and (D) where the results of such updating are statistically significant or relevant to Congressional policymaking, report them and the reasons for their significance at the end of the calendar quarter in which the updating occurred.

(As amended Pub. L. 95-565, § 7, Nov. 1, 1978, 92 Stat. 2400.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-565 added subsec. (c).

SUBCHAPTER IV—LOCAL RAIL SERVICES

§§ 761 to 763. Repealed. Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143

Section 761, Pub. L. 93-236, title IV, § 401, Jan. 2, 1974, 87 Stat. 1010, related to Congressional findings and purpose in providing for a program of rail service continuation subsidies.

Section 762, Pub. L. 93-236, title IV, § 402, Jan. 2, 1974, 87 Stat. 1010; Pub. L. 93-488, § 1(d), Oct. 26, 1974, 88 Stat. 1464; Pub. L. 94-210, title VIII, § 805(a), Feb. 5, 1976, 90 Stat. 139, directed the Secretary to provide financial assistance to States and local or regional transportation authorities in facilitating or maintaining main line or local rail service.

Section 763, Pub. L. 93-236, title IV, § 403, Jan. 2, 1974, 87 Stat. 1012; Pub. L. 93-488, § 1(e), Oct. 26, 1974, 88 Stat. 1465; Pub. L. 94-210, title VIII, § 805 (b), (c),

Feb. 5, 1976, 90 Stat. 142, authorized the Association to provide loans for the acquisition of rail properties by States or local or regional transportation authorities and for the modernization of these acquired properties.

EFFECTIVE DATE OF REPEAL

Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143, provided in part that the repeal of sections 761 to 763 of this title would be effective on the date of the second anniversary of the date on which rail properties were conveyed pursuant to section 743(b)(1) of this title. The rail properties in question were conveyed on Apr. 1, 1976.

SUBCHAPTER V—EMPLOYEE PROTECTION

§ 771. Definitions

CODIFICATION

The Interstate Commerce Act, referred to in par. (2), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, parts I and II of which were classified to chapters 1 (§ 1 et seq.) and 8 (§ 301 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV § 10101 et seq.) of Title 49. The definitions are now contained in section 10102 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 791. Relationship to other laws

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (b)(1), (4), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b)(1), (4), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Pertinent provisions of section 20a of the Act are now covered by section 11301 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 716, 742, 743, 774, 851 of this title; title 11 section 1166.

§ 793. Omitted

CODIFICATION

Section, Pub. L. 93-236, title VI, § 603, Jan. 2, 1974, 87 Stat. 1023, which related to freight rates for recyclables was restated in section 10710 of Title 49, Transportation, by Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1383.

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

Pub. L. 94-210, title II, § 204, Feb. 5, 1976, 90 Stat. 40, which provided for an investigation by the Interstate Commerce Commission of discriminatory freight rates for transportation of recyclable or recycled materials, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

CHAPTER 17—RAILROAD REVITALIZATION AND REGULATORY REFORM

SUBCHAPTER I—GENERAL PROVISIONS

§ 801. Declaration of policy

ACT REFERRED TO IN OTHER SECTIONS

The Railroad Revitalization and Regulatory Reform Act of 1976 is referred to in sections 562, 726, 741 of this title.

§ 802. Definitions

CODIFICATION

Section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), referred to in par. (7), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 10102 of Title 49.

SUBCHAPTER II—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

§ 821. Definitions

As used in this subchapter, the term—

[*See main edition for text of (1)*]

(2) "equipment" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features (except as provided in section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978). General service railroad freight car includes a boxcar, gondola, opentop or covered hopper car, and flatcar. The Secretary may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act;

[*See main edition for text of (3) to (5)*]

(6) "obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement;

(7) "obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Secretary; and

(8) "restructuring" means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail

freight system through the achievement of higher average traffic densities or improved asset utilization.

(As amended Pub. L. 95-620, title VIII, § 803(c)(1), Nov. 9, 1978, 92 Stat. 3347; Pub. L. 96-101, § 24(b), Nov. 4, 1979, 93 Stat. 747.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in par. (2), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note under section 822 of this title.

AMENDMENTS

1979—Par. (8). Pub. L. 96-101 added par. (8).

1978—Par. (2). Pub. L. 95-620 inserted "(except as provided in section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978)" following "or other features".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

§ 822. The Rail Fund

[*See main edition for text of* (a)]

(b) Purpose

The purpose of the Fund is to provide capital which is necessary to furnish financial assistance to railroads, to the extend[1] of appropriated funds, for facilities maintenance, rehabilitation, improvements, and acquisitions, and such other financial needs as the Secretary approves, in accordance with this subchapter. Money appropriated to the Fund under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 shall be used to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.

[*See main edition for text of* (c) *to* (e)]

(f) Contents of fund

There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

[*See main edition for text of* (1) *to* (4)]

(5) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments;

(6) funds as may hereafter be appropriated to the Fund as authorized under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978; and

(7) any other receipts of the Fund.

[*See main edition for text of* (g) *and* (h)]

(i) Uses

Moneys in the Fund shall be utilized—

[*See main edition for text of* (1) *to* (3)]

(4) in such amounts as are provided in appropriation acts, to make payment of all expenses incurred by the Secretary in carrying out his duties with respect to the Fund,

(5) to make transfers to the general fund of the Treasury, and

(6) to carry out the purposes of section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978.

(As amended Pub. L. 95-620, title VIII, § 803(c)(2)-(4), Nov. 9, 1978, 92 Stat. 3347.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in subsecs. (b), (f)(6), and (i)(6), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note below.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-620, § 803(c)(2), inserted provision requiring money appropriated to the Fund under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 be used for maintenance and acquisition of equipment and facilities for transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.

Subsec. (f). Pub. L. 95-620, § 803(c)(3), added par. (6) and redesignated former par. (6) as (7).

Subsec. (i)(6). Pub. L. 95-620, § 803(c)(4), added par. (6).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

RAILROAD REHABILITATION FOR TRANSPORTATION OF COAL

Section 803(a) and (b) of Pub. L. 95-620 provided that:

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to facilitate and encourage the use of and conversion to coal as an energy resource in regions and States which can use coal in greater quantity as a substitute for imported petroleum.

"(b) AUTHORIZATION.—There is authorized to be appropriated, for deposit in the Railroad Rehabilitation and Improvement Fund established under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), not more than $100,000,000. The money appropriated to the Railroad Rehabilitation and Improvement Fund pursuant to this subsection shall be expended by the Secretary of Transportation, in the same manner as other money in such Fund, to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities (whether or not such equipment or facilities were designed specifically for such purpose)."

§ 825. Rehabilitation and improvement financing

[*See main edition for text of* (a)]

(b) Application and determination

[*See main edition for text of* (1)]

(2) The Secretary shall act upon each such application within 6 months after the date on which all required information is received,

[1] So in original. Probably should be "extent".

except as otherwise provided in subsection (a)(2) of this section. The Secretary may approve any such application if he determines that providing the requested financial assistance is in the public interest. When making such a determination, the Secretary shall evaluate and consider (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed, and the railroad's rate of return on total capital (represented by the ratio which such carriers net income, including interest on long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission, except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided, (B) the interest of the public in supplementing such other funds as may be available in order to increase the total amount of funds available for railroad financing, and (C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs. Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services. With respect to funds appropriated for financial assistance under this section which were authorized pursuant to section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, applications for such funds for the purpose of coal transportation shall be deemed to be for the provision of essential freight services. The Secretary, in granting financial assistance to any applicant, shall assign the highest priority, among applications for assistance which would return equal public benefits, to applications for assistance for providing safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur.

[*See main edition for text of* (c)]

(d) Authorization

[*See main edition for text of* (1)]

(2) [*See main edition for text of* (A)]

(B) The Secretary, in order to provide financing pursuant to this section, may also purchase certificates issued under section 205(c)(3) of title 11, by a trustee of a railroad in reorganization and approved by the reorganization court, under such terms and conditions as may be approved by the Secretary and the reorganization court. In purchasing such trustee certificates or at any time thereafter, the Secretary may agree with the trustee of such railroad in reorganization, subject to the approval of the reorganization court, to exchange such certificates for redeemable preference shares issued, in accordance with the terms and conditions set forth in section 826 of this title, in connection with a plan of reorganization approved by the reorganization court. Except as provided in subparagraph (C) of this paragraph, no certificate shall be purchased under this section unless and until the Secretary makes a finding in writing that—

[*See main edition for text of* (i) *to* (iii)]

(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 205 of title 11, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term "senior debt" means—

(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 205 of title 11 and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.

(3) The total par value of the redeemable preference shares and the amount of trustee certificates which the Secretary may purchase from the proceeds received from the issuance and sale of Fund anticipation notes shall not exceed $700,000,000.

(e) Future purchases of redeemable preference shares

The total par value of the redeemable preference shares which the Secretary may, after September 30, 1980, make commitments to purchase under this subchapter, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 824 of this title, except that—

[*See main edition for text of* (1) *and* (2)]

(f) Rehabilitation for common carrier service

(1) Notwithstanding subsections (a) through (e) of this section (other than subsection (d)(3) of this section), the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as neces-

sary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold or transferred to another person or retained by the restructured Milwaukee Railroad and that will be used for common carrier rail service.

(2) The Secretary may not take any action under this subsection—

(A) prior to (i) the occurrence of an event described in section 920(b) of this title, or (ii) April 1, 1980, whichever first occurs; or

(B) after April 1, 1981.

(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than an average of 3,000,000 gross tons of freight per mile per year during the previous three-year period.

(g) Limitation

Not more than 50 percent of the funds made available at any time for the purchase of redeemable preference shares and trustee certificates under this section may be used for the rehabilitation and improvement of the facilities of any single railroad undergoing restructuring.

(As amended Pub. L. 95–565, § 5, Nov. 1, 1978, 92 Stat. 2400; Pub. L. 95–607, title III, §§ 301(a), 302, Nov. 8, 1978, 92 Stat. 3066; Pub. L. 95–620, title VIII, § 803(c)(5), (6), Nov. 9, 1978, 92 Stat. 3347, 3348; Pub. L. 96–73, title IV, § 401, Sept. 29, 1979, 93 Stat. 557; Pub. L. 96–101, §§ 16, 24(a), Nov. 4, 1979, 93 Stat. 744, 747.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Use Fuel Act of 1978, referred to in subsec. (b)(2), is section 803(a) and (b) of Pub. L. 95–620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note under section 822 of this title.

Section 205 of title 11, referred to in subsec. (d), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

AMENDMENTS

1979—Subsec. (b)(2). Pub. L. 96–101, § 24(a), inserted in cl. (A) "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided," and in cl. (C) ", including any significant railroad restructuring,".

Subsec. (e). Pub. L. 96–73 substituted "1980" for "1979".

Subsecs. (f), (g). Pub. L. 96–101, § 16, added subsecs. (f) and (g).

1978—Subsec. (b)(2). Pub. L. 95–620, § 803(c)(5), inserted provision that with respect to funds appropriated for financial assistance under this section as authorized by section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, application for such funds for coal transportation be deemed to be for the provision of essential freight.

Subsec. (d)(2). Pub. L. 95–607, § 302, inserted in subpar. (B), last sentence, the phrase "Except as provided in subparagraph (C) of this paragraph" and added subpar. (C).

Subsec. (d)(3). Pub. L. 95–620, § 803(c)(6), substituted "$700,000,000" for "$600,000,000" and "$150,000,000" for "$100,000,000".

Pub. L. 95–607, § 301(a)(1), struck out limitation that not more than $100,000,000 of the proceeds be used to purchase trustee certificates.

Pub. L. 95–565, § 5(a), struck out sentence providing that not more than $100,000,000 could be used to purchase trustee certificates.

Subsec. (e). Pub. L. 95–607, § 301(a)(2), substituted ", after September 30, 1979, make commitments to purchase under this subchapter" for "purchase under this subchapter after September 30, 1978".

Pub. L. 95–565, § 5(b), substituted "after September 30, 1979, make commitments to purchase under this subchapter" for "purchase under this subchapter after September 30, 1978".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96–73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95–620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

CHICAGO, MILWAUKEE, AND SAINT PAUL RAILROAD ROADBED AND TRACK IMPROVEMENT LOANS

Section 303 of Pub. L. 95–607 provided that: "The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement."

§ 826. Redeemable preference shares

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (a)(2), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

§ 827. Fund anticipation notes

(a) General

The Secretary shall, until September 30, 1980, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase Fund anticipation notes in an aggregate principal amount of not more than $600,000,000, in order to provide financial assistance to railroads for such financing needs as the Secretary approves.

[*See main edition for text of* (b) *and* (c)]

(d) Remittance and termination

If the Congress does not, on or before September 30, 1980, enact legislation of the type referred to in subsection (c) of this section, the Secretary shall hold in trust all redeemable preference shares issued by railroads which are held in the Fund, and the Fund shall thereupon terminate.

(As amended Pub. L. 95-607, title III, § 301(b), Nov. 8, 1978, 92 Stat. 3066; Pub. L. 96-73, title IV, § 401, Sept. 29, 1979, 93 Stat. 557.)

AMENDMENTS

1979—Subsecs. (a), (d). Pub. L. 96-73 substituted "1980" for "1979".

1978—Subsecs. (a), (d). Pub. L. 95-607 substituted "1979" for "1978".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 829. Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed $600,000,000 and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to September 30, 1980, from the Secretary, out of such moneys in the Treasury as are appropriated under this sentence, Fund anticipation notes in such aggregate principal amounts, subject to the foregoing limitation, as the Secretary may so offer for sale. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after September 30, 1980, without prior approval thereof in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 1351(d) of title 31.

(As amended Pub. L. 95-607, title III, § 301(c), Nov. 8, 1978, 92 Stat. 3066; Pub. L. 96-73, title IV, § 401, Sept. 29, 1979, 93 Stat. 557.)

AMENDMENTS

1979—Pub. L. 96-73 substituted "1980" for "1979" in two places.

1978—Pub. L. 95-607 substituted "September 30, 1979" for "March 31, 1979" following "time, prior to" and "prior to or after".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Oct. 1, 1979, see section 501(a) of Pub. L. 96-73, set out as an Effective Date of 1979 Amendment note under section 501 of this title.

§ 830. Exemption

CODIFICATION

Section 20a of the Interstate Commerce Act (49 U.S.C. 20a), referred to in text, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted Title 49, Transportation, and is now covered by section 11301 of Title 49.

§ 831. Guarantee of obligations

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (i)(3), in the original read "section 77 of the Bankruptcy Act". The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 832, 833, 914 of this title.

§ 836. Employee protection

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 914 of this title.

SUBCHAPTER III—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 601 of this title; title 49 section 1602.

§ 851. National Railroad Passenger Corporation

APPLICABILITY OF NATIONAL DEFENSE CONTRACT REQUIREMENTS TO IMPROVEMENT PROGRAM

Pub. L. 96-131, title I, § 101, Nov. 30, 1979, 93 Stat. 1030, provided in part that: "Notwithstanding any other provisions of law, the provisions of Public Law 85-804 [section 1431 et seq. of Title 50, War and National Defense] shall apply to the Northeast Corridor Improvement Program".

Similar provisions were contained in the following prior Appropriations Acts:

1978—Pub. L. 95-335, title I, § 101, Aug. 4, 1978, 92 Stat. 442.

§ 853. Required goals

The Northeast Corridor improvement project shall be implemented by the Secretary in order to achieve the following goals:

(1) Intercity rail passenger services—(A)(i) Within 5 years after February 5, 1976, the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on at most a 3-hour-and-40-minute schedule, including appropriate intermediate stops; and regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on at most a 2-hour-and-40-minute schedule, including appropriate intermediate stops.

[*See main edition for text of* (ii)]

(B) The improvement of nonoperational portions of stations (as determined by the Secretary in consultation with the National Railroad Passenger Corporation) used in intercity rail passenger service and of related facilities and fencing. Fifty percent of the cost of such improvements shall be borne by States (or local or regional transportation authorities) or other responsible parties, except that the Secretary may, in his sole discretion, fund entirely any safety-related improvement.

[*See main edition for text of* (C) *to* (E)]

(2) Rail commuter services, rail rapid transit, and local transportation—(A) To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rail rapid transit, and local public transportation.

(B) Omitted

[*See main edition for text of (3) and (4)*]

(5) Compatable[1] Equipment.—The Secretary shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating, and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in paragraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall consult with the Corporation in the development of such equipment. Before purchasing such equipment with Federal financial assistance, the Corporation shall obtain the Secretary's concurrence that the equipment meets the goals specified in this paragraph. The Corporation shall submit requests for authorization of appropriations for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by paragraph (1)(E) of this section.

(As amended Pub. L. 95–421, §§ 5, 8, Oct. 5, 1978, 92 Stat. 926, 927.)

CODIFICATION

Par. (2)(B), which provided that within one year after Oct. 5, 1978, the Secretary submit to Congress a report on the conflict between the needs of commuter rail passenger service and the needs of intercity rail passenger service in the Northeast Corridor and on the allocation of access rights to key Northeast Corridor terminals, especially Pennsylvania Station in New York, New York, was omitted from the Code as executed.

AMENDMENTS

1978—Par. (1)(A)(i). Pub. L. 95–421, § 8(1), added "at most" preceding "a 3-hour-and-40-minute schedule" and "a 2-hour-and-40-minute schedule".

Par. (1)(B). Pub. L. 95–421, § 8(2), added "or other responsible parties" following "(or local or regional transportation authorities)".

Par. (2). Pub. L. 95–421, § 5, designated existing provisions as par. (2)(A) and added par. (2)(B).

Par. (5). Pub. L. 95–421, § 8(3), added par. (5).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 851, 854 of this title.

§ 854. Funding

(a) Authorization of appropriations

There is authorized to be appropriated to the Secretary—

(1) $1,600,000,000 to remain available until expended in order to effectuate the goals of section 853(1)(A)(i) of this title and after such goals have been achieved, the goals of section 853(1)(A)(ii) of this title, of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this subchapter;

[*See main edition for text of (2) and (3); (b) to (g)*]

(As amended Pub. L. 95–421, § 9, Oct. 5, 1978, 92 Stat. 928.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1), (c), was in the original "this title", meaning title VII of Pub. L. 94–210, Feb. 5, 1976, 90 Stat. 119, as amended, which enacted this subchapter, and amended sections 543, 545, 546, 562 to 564, and 791 of this title, and section 1653 of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (f), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95–421 added provision making available not less than $27,000,000 to finance equipment modification and replacement as result of electrification conversion system of the Northeast Corridor.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 1, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

CHAPTER 18—MILWAUKEE RAILROAD RESTRUCTURING [NEW]

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[1] So in original. Probably should be "Compatible".

Sec.
908. Employee protection agreements.
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921. Office of Rail Public Counsel.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 231f of this title.

§ 901. Congressional findings

(a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Milwaukee Railroad threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which such railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, Minnesota, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry; and other railroads have the ability and willingness to employ displaced employees of the Milwaukee Railroad;

(5) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(6) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(7) cessation of such services is imminent; and

(8) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this chapter must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

(Pub. L. 96-101, § 2, Nov. 4, 1979, 93 Stat. 736.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 736, known as the Milwaukee Railroad Restructuring Act, which enacted this chapter and amended sections 231f, 662, 721, 821, and 825 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 96-101 provided: "That this Act [which enacted this chapter and amended sections 231f, 662, 721, 821, and 825 of this title] may be cited as the 'Milwaukee Railroad Restructuring Act'."

§ 902. Definitions

As used in this chapter—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "Commission" means the Interstate Commerce Commission;

(4) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(5) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(6) the term "restructured Milwaukee Railroad"—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 920(b) of this title, or (ii) April 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 905 of this title.

(Pub. L. 96-101, § 3, Nov. 4, 1979, 93 Stat. 736.)

§ 903. Sales and transfers

(a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties used in railroad operations as of October 15, 1979. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 920(b) of this title, or April 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 1654(a)-(e) of title 49, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of October 15, 1979. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court. Such a proposal may in no event become final or effective until the occurrence of an event described in section 920(b) of this title, or April 1, 1980, whichever first occurs.

(Pub. L. 96-101, § 4, Nov. 4, 1979, 93 Stat. 737.)

§ 904. Court approved abandonments and sales

(a) Abandonment of lines of railroad under section 1170 of title 11

(1) Upon the occurrence of an event described in section 920(b) of this title, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b) Sale or transfer of lines of railroad

(1) Upon the occurrence of an event described in section 920(b) of this title, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest [1] of employees as that required under section 11347 of title 49.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Effect on priorities and timing of employee protection payments

Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this chapter.

(Pub. L. 96-101, § 5, Nov. 4, 1979, 93 Stat. 737.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 915 of this title.

[1] So in original. Probably should be "interests".

§ 905. Employee or employee-shipper ownership plan

(a) Submission of plan to Commission; approval; findings

(1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by April 1, 1980;

(D) the railroad proposed to be operated under the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes agreements by labor and management to make implementing changes designed to achieve labor productivity increases (which may include changes in work rules to increase productivity) consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent and which the proponent is likely to obtain.

(b) Submission of findings to bankruptcy court

If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) Implementation of plan

If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall implement the plan no later than April 1, 1980.

(d) Judicial review

Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e) Furnishing of reports and other information for preparation of plan

(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or, unless necessary in connection with the preparation of the plan, to any customer of the Milwaukee Railroad.

(Pub. L. 96-101, § 6, Nov. 4, 1979, 93 Stat. 738.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 902, 920 of this title.

§ 906. Guarantee of trustee certificates

(a) Authorization

The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970 [45 U.S.C. 661 et seq.], immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (b) of this section, for purposes of allowing the Milwaukee Railroad, commencing November 1, 1979, to maintain its entire railroad system in accordance with section 920 of this title, and as required to finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 920(b) of this title or on April 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970 [45 U.S.C. 662(a)], and the provisions of section 3(b)(3) [45 U.S.C. 662(b)(3)] and the last two sentences of section 3(d) of such Act [45 U.S.C. 662(d)] shall not apply to such guarantee.

(b) Amount of guarantee

The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with subsection (a) of this section, and (2) the revenues of such railroad.

(c) Subordination of claims

Notwithstanding the provisions of section 3(c) of the Emergency Rail Services Act of 1970 [45

U.S.C. 662(c)], certificates guaranteed under this chapter shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of November 4, 1979.

(d) Availability of funds

The Commission shall immediately make available to the Secretary of Transportation the sum of $10,000,000, out of funds available for directed service under title 49. The Secretary of Transportation shall immediately make such funds available to the trustee of the Milwaukee Railroad for purposes of financing the operations of the Milwaukee Railroad, beginning November 1, 1979, in accordance with section 920 of this title.

(Pub. L. 96-101, § 7(d)-(g), Nov. 4, 1979, 93 Stat. 740.)

REFERENCES IN TEXT

The Emergency Rail Services Act of 1970, referred to in subsec. (a), is Pub. L. 91-663, Jan. 8, 1971, 84 Stat. 1975, as amended, which is classified generally to chapter 15 (§ 661 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

Directed service under title 49, referred to in subsec. (g), probably refers to directed service under section 11125 of Title 49, Transportation.

CODIFICATION

Subsecs. (a) to (d) of this section were originally enacted as subsecs. (d) to (g) of section 7 of Pub. L. 96-101 and were editorially redesignated subsecs. (a) to (d) of this section for purposes of codification.

§ 907. Railroad hiring

Each person who is an employee of the Milwaukee Railroad on September 30, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to April 1, 1981, as a result of a reduction of service by such railroad shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(Pub. L. 96-101, § 8, Nov. 4, 1979, 93 Stat. 740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 919 of this title.

§ 908. Employee protection agreements

(a) Agreement between Milwaukee Railroad and labor organizations

The Milwaukee Railroad and labor organizations representing the employees of such railroad may, not later than 20 days after November 4, 1979, enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad or a restructuring transaction carried out by such railroad. Such employee protection may include, but need not be limited to, interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

(b) Submission of matter to National Mediation Board

If the Milwaukee Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 20 days after November 4, 1979, the parties shall immediately submit the matter to the National Mediation Board. The National Mediation Board shall attempt, by mediation, to bring the parties to an agreement with respect to employee protection no later than 40 days after November 4, 1979.

(c) Fair and equitable agreements

(1) If the National Mediation Board is unable to bring the parties to an agreement under subsection (b) of this section within 40 days after November 4, 1979, the Milwaukee Railroad and the labor organizations representing the employees of such railroad shall immediately enter into an employee protection agreement that is fair and equitable.

(2) If an employee protection agreement is entered into under this subsection, any claim of an employee for benefits and allowances under such agreement shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement and shall certify such amount to the Milwaukee Railroad for payment.

(d) Payment of benefits and allowances

Benefits and allowances under an employee protection agreement entered into under this section shall be paid by the Milwaukee Railroad in accordance with section 914 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Milwaukee Railroad.

(Pub. L. 96-101, § 9, Nov. 4, 1979, 93 Stat. 741.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 911, 912, 914, 919 of this title.

§ 909. Supplementary unemployment insurance

(a) Eligible employees

Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction in service by such railroad prior to April 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad, and obtains employment, prior to April 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to April 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Period of payment

Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after April 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Amount of payment

Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on November 4, 1979, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.] or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) Filing of application

An application for supplementary unemployment insurance shall be filed with the Board in such time and manner as the Board by regulation shall prescribe.

(e) Insurance as compensation

Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.].

(f) Employees not covered

(1) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

(g) Furloughed employees

For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

(Pub. L. 96-101, § 10(a)-(g), Nov. 4, 1979, 93 Stat. 741, 742.)

REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in subsecs. (c)(2) and (e)(2), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see section 367 of this title and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (e)(1), is title I of Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of this title. Such title I completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§ 215 et seq.) and subchapter III (§ 228a et seq.), respectively, of chapter 9 of this title.

CODIFICATION

This section, referred to in text, means section 10 of Pub. L. 96-101. Subsecs. (a) to (g) of section 10 are classified to this section (section 909 of this title), and subsec. (h) of section 10 amended section 231f(b)(7) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 912, 913, 919 of this title.

§ 910. Employment of Milwaukee Railroad employees

(a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers,

based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

(Pub. L. 96-101, § 11, Nov. 4, 1979, 93 Stat. 742.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 919 of this title.

§ 911. New career training assistance

(a) Eligible employees

Any employee who elects to receive a separation allowance from the Milwaukee Railroad under an employee protection agreement entered into under section 908 of this title shall be entitled to receive from the Board expenses for training in qualified institutions for new career opportunities.

(b) Commencement of training as condition

To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Filing of application; Board determination

Entitlement to expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) Assistance prohibited after April 1, 1984

No assistance may be provided under this section after April 1, 1984.

(e) Definitions

As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38.

(Pub. L. 96–101, § 12, Nov. 4, 1979, 93 Stat. 743.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 912, 913, 919 of this title.

§ 912. Election

Any employee who receives any assistance under section 909 or section 911 of this title or under an employee protection agreement entered into under section 908 of this title shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11, subtitle IV of title 49, or any applicable contract or agreement.

(Pub. L. 96–101, § 13, Nov. 4, 1979, 93 Stat. 743.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in text, is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11.

CODIFICATION

Section 909, referred to in text, in the original read "section 10", meaning section 10 of Pub. L. 96–101, Nov. 4, 1979, 93 Stat. 741. Subsections (a) to (g) of section 10 are classified to section 909 of this title. Subsection (h) of section 10 amended section 231f(b)(7) of this title.

§ 913. Authorization of appropriations

(a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 909 of this title not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 911 of this title not to exceed $1,500,000.

(c) There is authorized to be appropriated to the Board to carry out its administrative expenses under this chapter not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

(Pub. L. 96–101, § 14, Nov. 4, 1979, 93 Stat. 743.)

§ 914. Obligation guarantees

(a) Authorization

The Secretary of Transportation, under the authority of section 831 of this title, shall guarantee obligations of the Milwaukee Railroad for purposes of providing employee protection in accordance with the terms of the employee protection agreement entered into under section 908 of this title. Guarantees under this section shall be entered into without regard to the requirements of subsection (g) of section 831 of this title.

(b) Obligations as administrative expense

Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(c) Limit on aggregate unpaid principal amount

The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(d) Limit on total liability

The total liability of the Milwaukee Railroad in connection with benefits and allowances provided under an employee protection agreement entered into under section 908 of this title shall not exceed $75,000,000.

(e) Liability of United States respecting section 908 agreements

Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with any employee protection agreement entered into under section 908 of this title.

(f) Applicability of section 836 of this title

Section 836 of this title shall not apply to any obligation guaranteed under this section.

(Pub. L. 96–101, § 15, Nov. 4, 1979, 93 Stat. 743.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 908 of this title.

§ 915. Court approved abandonment and sales in pending cases

(a) Abandonment of lines of railroad under Bankruptcy Act

Notwithstanding any other provision of law, in any case pending under section 77 of the

Bankruptcy Act on November 4, 1979, the court may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49.

(b) Sale or transfer of lines of railroad under Bankruptcy Act

(1) Notwithstanding any other provision of law, in any case pending under section 77 of the Bankruptcy Act on November 4, 1979, the court may authorize the sale or transfer of a line of railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection, if the application with respect to such sale or transfer is filed with the Commission on or after November 1, 1979. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer proposed in such application. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) Judicial review

Any action or order of the Commission approving, modifying, conditioning, or disapproving an application for the sale or transfer of rail property that is filed with the Commission before November 1, 1979, in connection with a case pending under section 77 of the Bankruptcy Act on November 4, 1979—

(1) is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5; and

(2) may not be stayed by the Commission.

(d) Authority of bankruptcy court

The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad shall be governed by the provisions of section 904 of this title, rather than the provisions of this section.

(e) Effect on priorities and timing of employee protection payments

Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this chapter.

(Pub. L. 96–101, § 17, Nov. 4, 1979, 93 Stat. 744.)

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsecs. (a), (b)(1), and (c), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§ 1161 et seq.) of chapter 11 of Title 11.

§ 916. Directed service

Until April 1, 1981, the provisions of this chapter shall be in lieu of any directed service on any line of the Milwaukee Railroad under section 11125 of title 49.

(Pub. L. 96–101, § 18, Nov. 4, 1979, 93 Stat. 746.)

§ 917. Applicability of National Environmental Policy Act

The provisions of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] shall not apply to transactions carried out pursuant to this chapter.

(Pub. L. 96–101, § 19, Nov. 4, 1979, 93 Stat. 746.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 918. Authority of Railroad Retirement Board

(a) The Board may prescribe such regulations as may be necessary to carry out its duties under this chapter.

(b) In carrying out its duties under this chapter, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 362 of this title as are not inconsistent with the provisions of this chapter.

(Pub. L. 96–101, § 20, Nov. 4, 1979, 93 Stat. 746.)

§ 919. Publications and reports

(a) Within 30 days after November 4, 1979, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 907, 908, 909, 910, and 911 of this title.

(b) During the 2-year period beginning on November 4, 1979, the Board shall submit a report

to the Congress every 6 months describing its activities under this chapter.

(Pub. L. 96-101, § 21, Nov. 4, 1979, 93 Stat. 746.)

CODIFICATION

Section 909, referred to in subsec. (a), in the original read "section 10", meaning section 10 of Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 741. Subsections (a) to (g) of section 10 are classified to section 909 of this title. Subsection (h) of section 10 amended section 231f(b)(7) of this title.

§ 920. Continuation of service

(a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on October 15, 1979, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 905(a) of this title;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the estate of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 905(c) of this title.

(Pub. L. 96-101, § 22, Nov. 4, 1979, 93 Stat. 746.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825, 902, 903, 904, 906, 922 of this title.

§ 921. Office of Rail Public Counsel

The Office of Rail Public Counsel may appear and be heard in the case in the bankruptcy court involving the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any line of the Milwaukee Railroad.

(Pub. L. 96-101, § 25, Nov. 4, 1979, 93 Stat. 747.)

§ 922. Employee stock ownership plan for surviving portion of Milwaukee Railroad

If an event described in section 920(b) of this title occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 [45 U.S.C. 661 et seq.] or any other Federal legislation shall be conditioned upon good faith efforts by the trustee or the Milwaukee Railroad, or both, to establish an employee stock ownership plan which shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee Railroad equal in value to 25 per centum of the amount of such relief provided.

(Pub. L. 96-101, § 26, Nov. 4, 1979, 93 Stat. 747.)

REFERENCES IN TEXT

The Emergency Rail Services Act of 1970, referred to in text, is Pub. L. 91-663, Jan. 8, 1971, 84 Stat. 1975, as amended, which is classified generally to chapter 15 (§ 661 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.